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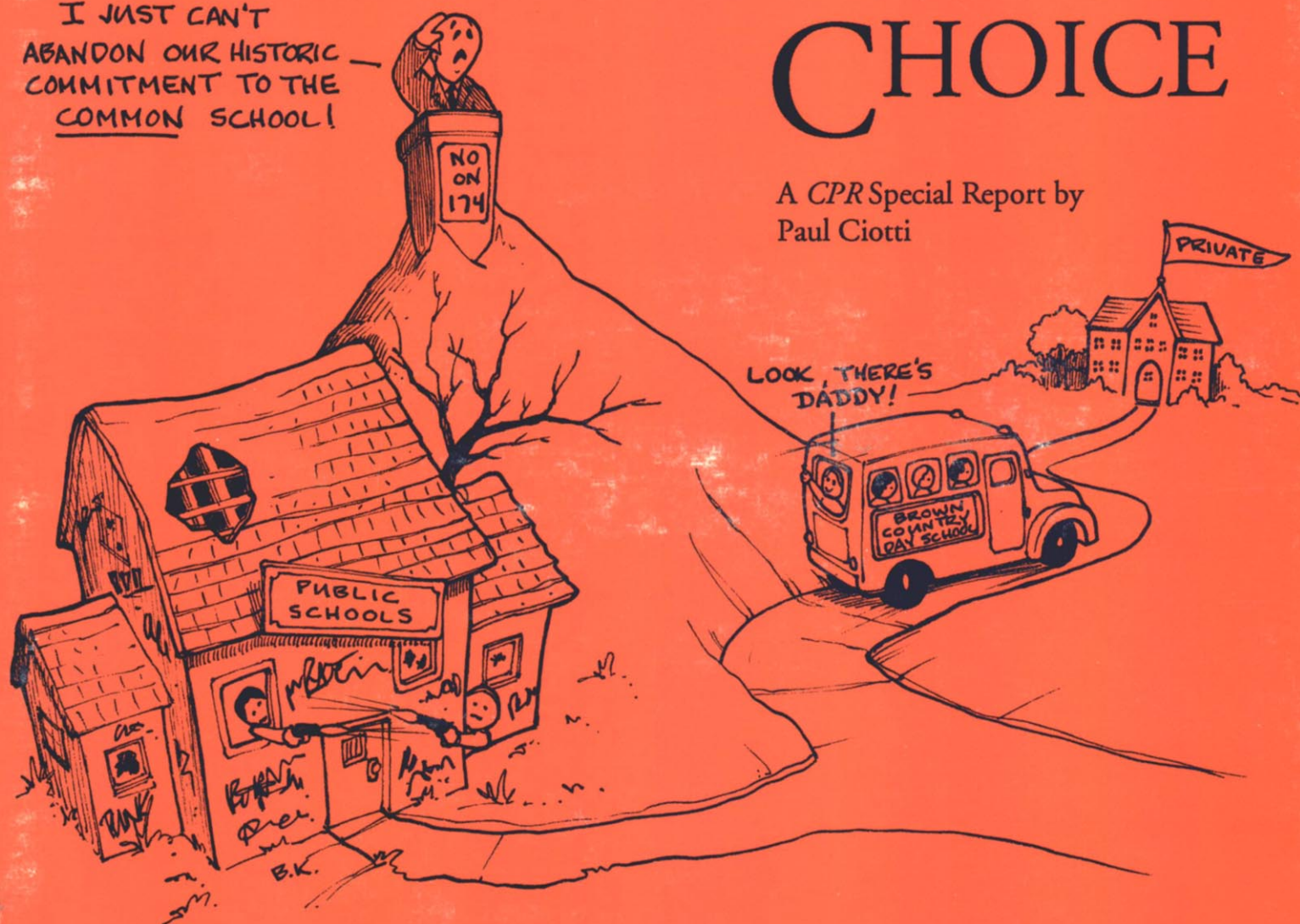
CALIFORNIA'S CRUSHING 'TORT TAX' by MARK S. PULLIAM

California Political Review

ONE UNION'S WAR AGAINST CHOICE

I JUST CAN'T
ABANDON OUR HISTORIC
COMMITMENT TO THE
COMMON SCHOOL!

A CPR Special Report by
Paul Ciotti



Also:

T. R. O'Neill-Lopez:
Jay Leno Goes *Too Far!*

Paul Golis on Destroying
the American Character

Sac Spec's Tales From the
'They Never Learn' Dept.

Vol. 4, No. 4

A Publication of the California Public Policy Foundation

Fall 1993

Ending the Liberal Monopoly in California Journalism

Should liberals continue to straitjacket California's political debate? No matter its failures, the left's creaking, derelict statism still shapes every discussion — *for* big government "solutions," *for* continuous tax increases, *for* more bureaucratic control, *belittling* individual freedom, *maligning* individual responsibility. Liberalism's monopoly in California journalism is the cause. *California Political Review* is the cure. Add *your* name to the growing list of California conservative leaders reading *California Political Review*. Subscribe today!

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California Political Review

Vol. 1, No. 1

The Decade of the Great
Republican Death Wish

by John Kuipers

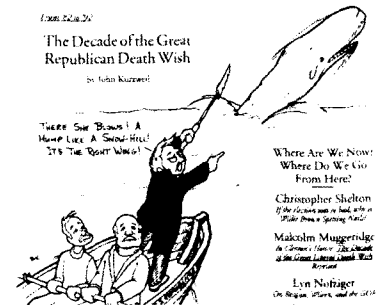
There She Blows! A
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It's The Right House!

Where Are We Now?
Where Do We Go
From Here?

Christopher Shelton
If the House was as bad as the
State House is getting worse!

Malcolm Muggeridge
in California: The State
of the Union, 1981-1982

Lyn Nofziger
On Reagan, 1981 and the 1982

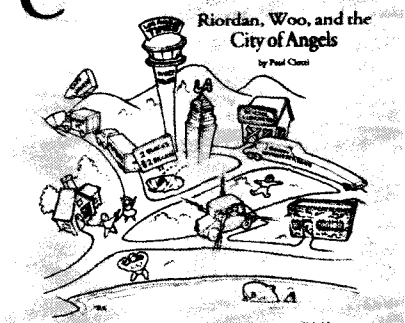


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California Political Review

Riordan, Woo, and the
City of Angels

by Paul Christ



Wild Abuse

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James Buchanan, Jr.
The Real Issue 1983

California Political Review

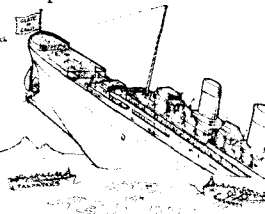
Spring 1983

Sliding Under

California Slips Into a Sea
of Red

Tom McCracken

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What The
Rodney King
Video Tapes
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Sgt. Stacey C.
Koon



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"Litigation," argues Charles Sykes, has become "both a proxy and a shortcut to innocence, meaning, and justification: If something has gone wrong, someone must be to blame. And it is not me" — an ethos that has given California surging liability insurance costs, huge legal bills, large settlements, and unpredictable jury verdicts. It is a hidden "Tort Tax" borne by all Californians.

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A publication of the California Public Policy Foundation

Correspondence

Sliding Under

It is a little difficult to say what is most disturbing about Tom McClintock's "Sliding Under — California Slips Into a Sea of Red" (*CPR*, Summer 1993): What it says about the condition of California's state government finances? About the real interests (purely political, which is to say, purely selfish) that guide the elected officials who have allowed things to come to such a pass? Or about the democratic sensibilities of the voters who, election after election, return these irresponsible louts to office? Frankly, I was surprised (though I suppose I should not have been) and a little saddened to read of former Governor George Deukmejian's role (or maybe I should say "role-over") in all this. In his defense, I would say that, compared to Wilson, he still looks pretty good. I know, it is a sad day when this is the best defense around.

But — to the future — what about Tom McClintock as the Republican Reform Candidate of 1994? To paraphrase the film *Mr. Smith Goes To Washington*: A man loose in the Statehouse who recites Thomas Jefferson and Adam Smith by heart, who not only talks but even *acts* on principle, and who actually *knows* something about how economies work? Yes, I think he would be all right.

Joseph Shumpter
Riverside

Tom McClintock did his usual thorough job in laying out the truly dreadful state of the California economy. Such sharp-edged reporting sets *CPR* apart from any other periodical. How about similar articles on some of these subjects?

1. A study of the UC system, to wit: where does all the money go? How little do some professors actually instruct in the classroom? What are they paid? Send a reporter into some classes teaching subjects of dubious value and see what UC students are getting in the way of instruction.

2. The cozy and injudicious relationship between certain federal judges (ahem) and components of the Democrat machine.

3. Now that he has slithered out of public office, find some people who will talk about that sleaziest of lawmakers, Tom Bane, and how he got rich off the political process.

4. The incredible growth, inversely related to its value, of the California Integrated

Waste Management Board.

5. How many people die in state prison every year?

6. Is a tuberculosis epidemic coming and, if so, what is the state doing about it?

There are many more but these just came to mind as I finished your last issue.

Alex Anchorage
Sacramento

Enough such reports are awaiting publication to keep busy dozens of non-liberal magazines and newspapers — if only they existed. California is starving for conservative journalism; thanks for drawing attention to what ought to be, but isn't, a well-known fact. We'll continue doing our best (which is barely scratching the surface) to report the news the left-blinded media ignores.
Editor

Felons Rewarded; Police To the Slammer

"Right on" to you for having the guts to publish excerpts of Stacey Koon's book ("What the Rodney King Video Didn't Show," *CPR*, Summer 1993). Koon and Powell and the rest of the police officers pursued a felon who was in violation of his parole. This felon then resisted arrest and made threatening moves towards the police officers. So guess which side of this equation is going to the "big house up the river," and which side is going to receive a million dollar award from the taxpayers of Los Angeles? Ah ... liberalism at its finest.

CPR continues to be a source of information I can't find anywhere else.

Warren Slocum
Bishop

Rejecting Fascist Kooks

David Horowitz's article, "Double Standards for Extremists" (*CPR*, Summer 1993) was blemished by his acceptance of the old chimera that "there are fascists on the right and fascists on the left." Such a statement implies that the political spectrum can be described as a circular formation, with closure of the circle being achieved by the merging of similar fascist or NAZI elements.

Political gradations, however, are more accurately portrayed as linear, in which the disdain or desire for governmental power ranges from the extreme right (anarchy) to

the extreme left (totalitarianism). Mussolini and Hitler's efforts were nothing if not exercises in oppressive government.

Unfortunately, present day fascists and Neo-Nazis are commonly called "right wing" by the news media, and it is to the advantage of the left that this confusion continues. It provides protection from one of the left's greatest threats: the public's

(Please turn to page 5)

California Political Review

A publication of the California Public Policy Foundation

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CALIFORNIA CHRONICLES

Anne McFadden



California Chronicles welcomes information about conservative groups, publications, and activities — also news of liberal fraud, fatuousness, and foibles (especially appreciated). Contact: Anne McFadden, 712 Wilshire Blvd., Suite 44, Santa Monica, CA 90401.

CRP Convention

Bennett, Schundler, and Prager

The importance of *both* economic and social conservative principles was the theme for several speakers at the September 17-19 CRP convention. The "California Republican Party," said William Bennett, "will play a critical role" in the national GOP's efforts "to define itself." He pointed out that "around the world ... people see us as a decadent society." Though no one on earth spends more for education, "we are next to last in the industrialized world in educational achievement and we lead the world in violent crime I don't even use the term traditional values. The debate today is between values and no values. What is coming out of Hollywood and Washington today is not values. It is whatever they want to call it: self-esteem, feel good about yourself, options, lifestyles — but it is not values." Bennett said America's last 30 years have seen "a process of de-civilization" in which "we have forgotten to take care of" soci-

ety's bedrock institutions: "families, neighborhood, churches, schools. And that is where the center of our reform efforts must be." He endorsed Proposition 174, November's parental choice in education initiative, which, he said, would "change the face of American education," a face that could use some changing since 60 percent, he said, of American high school students either drop out or graduate with "less than a 7th grade education."

The convention also heard bespectacled and mild-mannered Bret Schundler, the recently-elected GOP mayor of Jersey City, New Jersey — an economically depressed town that New Yorkers, believe it or not, actually make jokes about. Largely black and Hispanic and boasting less than 10 percent Republican registration, the city nonetheless elected this 34-year-old white conservative. Schundler proposed "a little bet ... [that] whatever happens this November ... in a decade, school vouchers will be a reality in California and across the country." Not, he said, "because of the courage of our leaders, because until we have term limits, our leaders won't have courage. They will pass because the people, no matter how powerful the special interests and opposition, will not be denied their basic right" to find "what is best for their children."

On Sunday, Jewish writer, radio

talk host, and recently-registered Republican Dennis Prager told the convention: "I fear a post-Christian America. People get killed *en masse* when Christianity dies." He said "we have substituted psychology for morality. There is no good or evil, only healthy and sick. It is part of the demoralization of our country." He said he re-registered because he could not stay in the party "that represents all of those trends." Prager said liberals only pretend to be open-minded and tolerant. "Bilingual education is racist," he said. "Why is it my ancestors and your ancestors had to learn English but Hispanics are not capable of it? The Democratic party says that you Hispanics are the dumbest immigrants to enter this country. Democrats regard Hispanics as intellectually inferior just as they regard blacks as morally inferior. And the proof is that we have a different moral system for blacks and for whites. When whites riot in Germany they are called fascists. When blacks riot in LA, they are to be 'understood.' Democrats are not for Americans, they are for groups."

Gun Owners of California

How Guns Save Lives

A fully-documented Gun Owners of California "Firearms Fact Sheet" points out that about one million Americans use a firearm to

defend themselves against criminals yearly (2,740, on average, per day), that in 98 percent of these cases, merely brandishing the firearm scares off attackers, and that in two-thirds of them the citizen protects himself with a handgun. Further points: Since Florida liberalized its concealed carry law in 1987, more than 130,000 people have received permits to carry firearms. FBI reports show the homicide rate there has *fallen* 17.5 percent while rising nationally 18 percent. Of the 130,000, only 15 people — .01 percent — used their gun to commit a crime. In 1982, Atlanta suburb Kennesaw, Georgia, *required* heads of households to keep at least one firearm in the home. Residential burglaries dropped *89 percent*. In 1991 it remained 72 percent lower than before the law passed. In 1966-67, the media publicized a safety course which taught Orlando, Florida, women how to use guns. That city's rape rate dropped 88 percent in 1967, while rape rates remained constant in the rest of Florida and the nation. A Justice Department study found that of more than 32,000 attempted rapes, 32 percent were actually committed. But when a woman was armed with a gun or knife, only *three percent* of the attempted rapes succeeded. Contact: Gun Owners of California, Inc., 3440 Viking Dr. #106, Sacramento, CA 95827, 916/361-3109.

Pacific Legal Foundation

The Ballad of Ocie Mills

PLF is fighting to overturn the convictions of Ocie Mills and his son Carey, each sentenced to 21 months in prison, denied eligibility

for parole, and fined \$5,000 after they were convicted of four felony violations of the federal Clean Water Act. The crime? In 1989, Ocie bought two small lots in a platted subdivision of Santa Rosa County, Florida, on which to build his son a house. They placed 19 loads of clean builders sand on the uplands section of the half-acre lot to perform the necessary grading. To improve drainage and control mosquitos, Ocie cleaned out a 300-foot drainage ditch between the lots. The ditch had been there years before he bought the property. The Florida Department of Environmental Regulation (FDER) told them no permit was needed for any of this. But the U.S. Army Corps of Engineers, an unelected administrative agency that Congress empowers to define Clean Water Act felonies, charged the Millses with "knowingly discharging fill material in wetlands and dredging a canal in navigable waters [!] without a federal permit." U.S. District Judge

Winston Arnow, who must be counted a dunderhead even by federal judicial standards, not only failed to throw the case out, he refused to allow the Millses to present evidence that Florida law and the FDER both allowed their activities. He also refused to permit FDER employees to testify to their opinion that the property was not a wetland as defined by the *Corps' own regulations*. The Millses did their time. Now, PLF is fighting to clear their names. Contact: Pacific Legal Foundation, 2700 Gateway Oaks Dr., Ste. 200, Sacramento, CA 95833, 916/641-8888.

In Brief

A recent Reason Foundation study, "The Facts About 'Gridlock' in Southern California," reveals some surprising misconceptions in the conventional wisdom about Los Angeles auto travel: that speeds are *higher* than the national large city average, that commuting times in LA have remained more or less *constant* for a quarter of a century, that average vehicle occupancy has been *declining*, and that *non-work* trips constitute 43 percent of the morning rush hour in greater Los Angeles and 56 percent in the afternoon. Contact: Reason Foundation, 3415 S. Sepulveda Blvd., Los Angeles, CA 90034, 310/391-2245 Republicans aged 13-20 can join the Young Republican Council of America, a group started by Christian young people after Clinton's election to encourage formation of "effective, completely youth-driven and directed" political and service organizations. YRC assists conservative, pro-family candidates (it helped elect Rob Hurtt) focusing on Christian values, although it welcomes young people of different faiths. Contact: Tyler J. Likes, president, Young Republican Council of America, Box 2188, Canoga Park, CA, 91306, 818/993-3765.

CPR



Correspondence

(Continued from page 2)

discernment that Hitler was a Socialist. In fact, NAZI is an acronym of *Nationalsozialistische Deutsche Arbeiterpartei* (National Socialist German Workers' Party).

It is past time for conservatives to reject their alleged relationship with Nazi and fascist kooks. Mr. Horowitz's article would have been a good place to start.

Carl B. Lind
La Jolla

Mr. Horowitz responds:

The Posse Comitatus and Tom Metzger's Ku Klux Klan are opposed to big government and thus, by Mr. Lind's own standards, are fascists of the right.

Demoralized, Despondent, and Confused

Last fall I had the good fortune to be in Canada finishing my education and was thus spared the agony of witnessing the November debacle that left California conservatives so demoralized, despondent, and confused. That the Legislature would remain staunchly Democrat despite a more favorable redistricting, that traditional Republican constituencies in the south would prove so unreliable to the Party, and that two female Bay area Democrats of quite leftist bent would win both Senate elections so baffled me from my distant vantage point that I threw up my hands in utter defeat. I began to wonder what appeal the left might possess I had overlooked.

Fortunately, my doubts soon dissipated. Watching the farce on the national stage, I am confident that conservatism will someday again inform the nation's leaders.

California's leadership, however, is another (perhaps more complicated) matter. As in November, I remain troubled. Ineptness, philosophical confusion, and flawed principles have left our GOP governor so politically moribund that he's now outpolled even by a transparent and shallow opportunist like John Garamendi. The governor made things worse by his vendetta against conservatives and his packing of his administration with the remaining vestiges of Rockefeller Republicanism. Under the circumstances, *CPR* is a Godsend.

Rex Grady
San Diego

Notebook

Gizmo A No-Show

DEFYING PRE-CONVENTION rumors, "Gizmo for Governor" buttons, banners, and bumper strips did *not* festoon the California Republican Party's Saturday night convention hospitality suites in Anaheim in September. However, variations on the phrase "Governor Tom McClintock" were widely visible. McClintock, who set off a brief Gizmo boomlet by suggesting that his Persian cat — Gizmo — could lose the governor's race less expensively and less certainly than Pete Wilson next year, would not commit himself on his own plans about entering the race An "Oliver North for U.S. Senate Committee" has been established in Virginia with North's blessing. Fund-raising letters mailed nationally accuse "The Clinton Administration, with the help of people like Senator Chuck Robb," of wanting "to turn back the clock to the Lyndon Johnson era of bigger government, more spending, greater deficits, and ever higher taxes." Robb has been weakened by a nasty, long-running inter-party battle with Virginia's Democrat Governor Doug Wilder who plans to challenge Robb's re-nomination. If North wins the GOP nod, we'll see a fine test in the general election of Virginia's liberal Republicans' "Big Tent" sincerity.

DISPLAYING THE thin-skins and weak minds all the rage just now in Sacramento, Senate President Pro Tem David Roberti and Assembly GOP Leader Jim Brulte are demanding retractions and apologies from (and, probably, a sound caning for), respectively, Rosemead Assemblywoman Diane Martinez and Assemblyman Willard Murray of Paramount. Murray stepped in deep Assembly doo-doo recently with his remark that some move by the GOP leader "was very *white* of Mr. Brulte." Earlier, Martinez risked setting off a blood feud by referring to Roberti as "the Godfather." Roberti recalls that at first "I kind of laughed at" Martinez's remark, but now regrets his momentary lapse into a sense of humor. He says the Assemblywoman "should wash her mouth out" — no kidding

Next year's race to replace retiring Lt. Governor Leo McCarthy could grow in importance if the GOP continues to inch toward greater power in the state Senate (where LGs cast tie-breaking votes). The GOP's probable November 2 pick-up of the fourth district seat (Maurice Johannessen) will give Republicans 16 of the Senate's 40 seats, a number that could increase to 17 after two more special elections: in districts 11 (a probable win that would hold a Republican seat) and 40 (a possible win and potential GOP one-seat gain). Independent Senator Quentin Kopp often votes with conservatives, potentially making an 18-vote block leading into next year's 20 Senate elections — 13 involving Democrat incumbents. Even 18 conservative votes would make the Senate much more interesting to watch. (OK, that's not saying much.) But Dems Bob Presley (SD 36) and Dan McCorquodale (SD 12) are considered vulnerable, especially if Clintonomics performs as destructively as expected the next 12 months. Registration figures in Republican Phil Wyman's new Senate district give him serious re-election problems. But even a net gain in '94 to just 18 Republicans plus Kopp, with a Republican Lt. Governor, would mean that peeling off just one Democrat vote could bring GOP victories in the state's upper house. Such dreamy speculation occupies parties long out of power. Even so, the Lt. Governor race perhaps deserves more attention.



FORMER HERITAGE Foundation Education Specialist (and *CPR* contributor) Jeanne Allen has established The Center for Education Reform — "a national clearinghouse to promote and create education successes." The Center is an affiliate of the San Francisco-based Institute for Contemporary Studies. Jeanne has long been a leader in campaigns across the country for parental choice in education. More information is available at *The Center for Education Reform, 1001 Connecticut Avenue, NW, Ste. 920, Washington, D.C. 20036, 202/822-9000.*

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Commentary

Resisting the Media Hive

THIS ISSUE'S Paul Ciotti cover article on the war to stop parents from choosing their children's schools (rich liberals excepted, of course) marks *California Political Review's* second cooperative effort with Joseph Farah's *Inside California*. IC's current issue carries a briefer, "highlights" version of the article by Mr. Ciotti. Our intention is to extend the audience and increase the impact of the investigative reports our two publications commission. We remain, to be sure, a long way from breaking up the news blackout imposed by the major liberal media on such articles. (Readers will find considerable difficulty even locating the word "choice" — the whole point of the initiative — in the Media Hive's standard reports on the campaign.) Even so, this small CPR-IC network, which includes among its readers many of California's most influential individuals, is a short first step in that direction.

Dan Walters' Straw Man, Part II

SACRAMENTO BEE columnist Dan Walters' recent attacks on Assemblyman Pat Nolan were partly answered in an editorial in the Summer *CPR Update*. We return to the subject to answer points space limitations kept us from addressing then. As in the past, Walters again accuses Nolan of carrying on a phony opposition to Speaker Willie Brown while Nolan was GOP leader. Walters has long maintained that the two actually struck up a behind-the-scenes policy of mutual accommodation beginning as much as a decade ago.

The truth is that soon after Nolan became Republican leader in 1984 he decided, with the *unanimous* support of the Assembly GOP caucus, that fights with the Democrats should be over issues and ideas — not over non-substantive procedural matters. When Assembly Republicans locked horns with the Democrats, which they did often, it was over issues that mattered to voters, not over locations and sizes of offices in the Capitol. Walters ignores this important item.

Walters also neglects to remind readers that in 1984 Republicans held only 33 seats in the lower house to the Democrats' 47. With that balance of power, the kind of frontal assault on Brown's speakership Walters seems to think a true GOP partisan would have launched would have been like Luxemburg declaring war on the United States — absurd. Walters also implies that, had Nolan really been opposing Brown, by 1987, when Republicans held 36 seats, Nolan would have ended Brown's speakership by joining the so-called "Gang of Five" in a vote to topple him. (The "Gang" consisted of five relatively conservative Democrat Assemblymen who sometimes broke with the speaker on the

Assembly floor.) Walters skips over the slightly salient point that *the reason* the GOP had 36 seats in 1987 is that Pat Nolan had directed a highly successful campaign in 1986 that reduced Willie Brown's ranks by three seats. That humiliating defeat so infuriated Brown he publicly excoriated his own chief campaign consultant, packing him off to a campaign retraining camp, the political professional's equivalent of being sent down to the single-A farm team after blowing it in the majors.

Walters also fails to mention that the "Gang" only offered to help Nolan replace Brown with another Democrat, consistently refusing to join in electing any Republican speaker. Why Nolan should have been interested in shuffling Democrat speakers Walters does not explain. He also says nothing about the agreement Nolan and the "Gang" finally *did* make shortly before the June 1988 primary to elect a Republican speaker. (By then, Brown had made them angry enough to go that far.) But Republican Assemblyman Dick Longshore died the day after that primary. Had he lived, his vote would have made some Republican, most likely Nolan, speaker the next day. Unkind fate, not any secret agreement with Brown, removed Nolan's one chance to topple him.

Walters knows all of this, but won't pass it on to his readers. That would spoil his anti-Nolan diatribe, a long-running exercise that is providing him far too much fun to be sacrificed in the interest of mere truth.

Fractured Fairy Tales

SESAME STREET magazine, of all things, is now a battleground in the "PC" (for recent Biosphere II escapees: that means Politically Correct) wars. In "The Count's Nursery Tale Tour," which appeared in last April's issue, the publishers edited the faces of Rapunzel and her prince — white skin out; dark skin substituted. When a reader wrote suggesting that the magazine focus on "the fascinating and richly textured tales" provided in "African, Indian, Latin, Polynesian, and Arab cultures" rather than indulging in such a "feeble attempt at political correctness," the editor answered irrelevantly that "we hope to communicate to all children that no dream — even that of being a princess or a prince — is closed to them. We will continue ... to show diversity" But "diversity" is just what such lock-step conformity with PC's puritanical dictates won't allow.

In May, *Sesame Street* edited this nursery rhyme:

*Teddy Bear, Teddy Bear turn around.
Teddy Bear, Teddy Bear touch the ground.*

*Teddy Bear, Teddy Bear go upstairs.
Teddy Bear, Teddy Bear say your prayers.*

In *Sesame Street's* hands, "say your prayers" became "comb

Sacramento Spectator

There He Goes Again

FIRST UP for you faithful *Spectatorites* is an item from the "They Never Learn" department concerning Governor Wilson's efforts to recruit GOP candidates for the various statewide offices next year. Given Petey's tenuous poll standings and his past history of picking fights willy-nilly with us conservatives, most seasoned (that's well-seasoned, as with gin, scotch, etc.) Capitol observers thought Wilson would demonstrate some concern for party unity in his recruitment efforts. Not so.



Those the governor's office is supporting or urging to run are *all* pro-abortion and pro-Wilson tax increase (Santa Barbara Representative Michael Huffington, for instance) and *most* also share the governor's knee-jerk antipathy toward all things conservative — in short, Wilson clones. To quote the late, largely-unlamented George Bush, "This is bad, BAAD." The governor could have used these recruiting efforts to reach out to conservatives. Instead, he is using his time to slap us again. If indeed actions do speak louder than words, he is simply repeating by his actions his famous sentiment from 1991, that conservatives are "f***ing irrelevant."

Yet come the fall campaign, you can be sure that we irrelevant conservatives will be told that we must vote for Wilson in the name of party unity or to keep the evil Democrat nominee out of the governor's office. Once again, Wilson is going out of his way to express his contempt for those he somehow expects to re-elect him.

IN THE good news department, Bill Clinton continues to be a tonic for generic Republicanism. New registrants in California continue to favor the GOP over the Democrats by a healthy margin, exactly the reverse of one year ago.

The boys and girls in the Legislature ended their session relatively on time and without the usual ran-
cor and name calling on the last session night (which ran until 3:30 the next morning). And while they didn't accomplish anything particularly noteworthy, neither did they pass anything that threatens the life and liberty of our citizens. For that, let us be truly thankful.

YOUR *SPECTATOR* believes you heard it here first — that freshman state Senator Rob Hurtt of Orange County is likely to have *de facto* control of the Senate Republican Caucus by January, whether or not Fresno's Ken Maddy retains the title of "leader." That is largely good news. Even some of Hurtt's closest friends, however, are a little concerned that he has moved too far too fast. He has made some rather strange alliances along the way so far, the kind of alliances that can come back and bite him later if he's not extremely careful. Stay tuned, this should be a fascinating story to watch unfold since Hurtt will be a major player in the Capitol for the foreseeable future.

Sacramento Bee columnist Dan Walters has surprised even his friends by the gratuitous and venomous attacks on Assemblyman Pat Nolan contained in several of his recent columns. Going out of his way to kick Nolan while he is down, Walters repeats stories he *has* to know are questionable, asserts "facts" he *has* to know are false, and clearly goes out of his way to put Nolan in the worst light possible.

Even though Walters' contempt for things conservative is fairly well known, the mean-spirited and vitriolic tone of these columns is surprising. Nolan and company never were willing to brown-nose Walters while Nolan was GOP Assembly leader, and he is apparently now paying the price.

A LITTLE item the California Teachers Association won't report — seven years and \$1.3 *billion!!!* after federal Judge Russell Clark ordered the state of Missouri to bury Kansas City's public schools in money to "save" them, the results are in: pupils in elementary schools *not* receiving the extra money are *outperforming* those in the schools receiving the cash, where math scores began falling and the drop-out rate soaring (now at 60 percent) shortly after the judge's order went into effect. Thought you'd like to know.

— A.P.C.

your hair." Another reader complained and *Sesame Street* Contributing Editor Rebecca Herman responded that "by altering the line ... we felt we could be more inclusive" — an Orwellian transformation: systematic *exclusion* of things Western or religious blithely re-named "*inclusion*" — and all's well. It is revealing that *Sesame Street* magazine, in its effort to narrow down and close off the workings of young minds, should choose religion for exclusion. It was, after all, religion — the West's Judeo-Christian heritage — that taught Europe's superstitious, self-absorbed barbarians to open their minds to the larger realities of the real world, and thus to create Western civilization with its quaint notions about science, law, morality, and, of course, tolerance.

Reverting to brain-dead barbarism would naturally require first of all the elimination of religion, of "say your prayers" in favor of "comb your hair." A promising note: editor Herman's response to the "Teddy Bear" complaint, after her line

about being "more inclusive," went on: "However, after reading your letter, I can see that in the future we will have to weigh such decisions differently." Just what she meant by "differently" remains to be seen, but this must be interpreted as at least a small sign that intelligent life survives at *Sesame Street* magazine. We have grounds for hope.

A Little Journalistic Integrity

A REMARKABLE article appeared in the American Medical Association's July 12 *American Medical News* — remarkable in that it looked, without blinking, at an issue usually met only with evasions. "The notion," it ran, "that the nurses, doctors, counselors, and others who work in the abortion field have qualms about the work they do is a well-kept secret

"When it comes to abortion, probably nothing is more gut-wrenching than the issues raised by late-term procedures,

DESTROYING THE AMERICAN CHARACTER

by Paul Golis

A THINKING American by the name of Thoreau wrote over 100 years ago:

"... This government never of itself furthered any enterprise, but by the alacrity with which it got out of the way. It does not keep the country free It does not educate.

"The character inherent in the American people has done all that has been accomplished; and it would have done somewhat more, if the government had not sometimes got in its way."

His statement is even more true today. And it was to dramatize the current fashion to destroy this "character inherent in the American people" that I wrote a novel, *A Day in the Life of Jay Peter Sweetly*, about the crushing of a man's initiative and imagination by government and the bureaucratic mentality.

Government is not moving out of the way; but is stultifying the creativity,

the ingenuity, and the optimism of the American people by repressive laws, unintelligible, nonsensical regulations, and bumbling, arbitrary bureaucrats.

This torture and the murder of the American soul is being done by legislators seeking to "protect the consumer," "repair the environment," "provide for the public safety," "improve the quality of life."

The results are exactly the opposite as the bureaucratic devils are quoting scripture for their bad purposes.

These persons are frauds, con artists. Their real motives (note the results) are to advance their position by convincing each group of creators-producers that the other is cheating him.

The farmer is selling only culls; the automobile manufacturer makes only lemons; and the retailer is using short weights.

I would remind all Americans, before they are taken in by these charlatans, that legislators and bureaucrats grow no food, make no clothes, construct no homes, factories or stores, dig no coal, drill for no oil.

Government may dole out some food, clothing, power, or transportation but only because they take from those who have grown or made it. Today Thoreau would conclude that the sabotaging parasites who have brought our economy to a halt are such excellent bunco artists they have placed the blame on those Americans who have made trade and commerce possible.

And before any American producer, worker, or consumer is gulled any further to request or allow more restrictive laws of these legislators and bureaucrats, ask yourself the following:

WOULD YOU want these men to run your farms, build your automobiles and tractors, fly your airplanes, build your homes, run your stores? Why not then relegate them to shoveling bull manure physically, not merely literally?

But the most pervasive damage is in the loss of optimism and faith in the future. The message of the *Sweetly* book: Workers, farmers, builders, producers, creators, investors of America, unite! You've done a hell of a good job; we've got a good thing going! Don't let government destroy it.

STAND UP AND FIGHT!

CPR

Seventy-six-year-old Paul Golis has been a business man, attorney, realtor, and writer, and is a life-long Democrat. He wrote a somewhat longer version of this article in 1975, a time, it appears, remarkably like our own. He lives in Thousand Oaks.

those done in the second and third trimesters

"When I can identify the four chambers of the heart, I start feeling miserable. And when I put my hands on somebody to feel how big they are and I get kicked, I'm barely able to talk at that minute

"One thing that doesn't change over time ... is the kinds of questions patients ask. Questions that sometimes stump the staff.

"Like whether the fetus feels pain during the procedure.

"This is a big concern' for both staff and patients, said a clinic employee from Massachusetts. After all, she said, 'it is a dismembered body'

"Patients also sometimes ask to view the fetal remains. A Toronto physician said she didn't know 'how and whether

we (should) protect the patient from the reality of the procedure.' She said she regularly hid the ultrasound screen and 'whisked away' the 'fetal products.'

"She's probably not prepared for what she's going to see,' she said of one patient."

AT LEAST that patient is prepared to try to look. Looking honestly at abortion, not at the hyperbole of the public policy debate, but at the thing itself, at what it actually *is*, does not serve the cause of abortion on demand and so is rarely tolerated by our journalistic, political, and other sundry establishments. Commendations to *American Medical News* (whose editor will probably soon be in the job market) for its courage and journalistic integrity.

CPR

The Protracted Conflict At Home

Hollywood's Fabulated Racism

Why Almost Every Villain on TV is a WASP

David Horowitz and Peter Collier

THE OTHER morning TV viewers were treated to a surreal dialogue between *Today Show* host Bryant Gumbel and Hollywood's Laurence Fishburne, star of *Searching For Bobby Fischer* and other recent hits. The two men had hardly begun discussing Fishburne's latest success and his astronomical rise in the film world, when the conversation — inevitably it seems these days — turned into a diatribe about Hollywood's racism.

Gumbel asked Fishburne if it was any easier now "for an African-American male to get work in Hollywood." Despite his own multi-million dollar success, Fishburne couldn't say "realistically" that it was — except for himself, "Wesley" and "Denzel." Other black actors still had to "do the traditional types of roles that we've had to do." Here Gumbel completed his

thought: "Pimps, hustlers, gangsters." While Fishburne added "Junkies, thieves, racists."

It was quite a spectacle. Here were two men making millions of dollars as black mega-stars, complaining about the white conspiracy to deny them success. (Of course, it is not just Wesley Snipes and Denzel Washington, but also Whoopi Goldberg and Bill Cosby and Oprah Winfrey and Eddie Murphy and Arsenio Hall and Danny Glover and Spike Lee who can call their own roles and tunes in today's Hollywood.)

Deploring the unreformable reality of American racism has become a ritual for black celebrities, almost like presenting an apartheid pass in order to retain their status in the community, even when their life experiences argue the exact opposite.

Who, today, would deny the fact that in the institutions of slavery and legal discrimination, America commit-

ted a great crime against black Americans and also against itself? The question is whether the cause of a racially plural society is advanced by denying the reality of redress that has already been made and progress that has already been achieved.

Has white Hollywood conspired, for example, as Jesse Jackson has claimed, to portray black Americans as "more violent than we are?" (*New York Times*, September 4, 1989)

THE REVERSE, in fact, is closer to the truth: In real life blacks commit more than 50 percent of the violent crimes, including 55 percent of the homicides in America, but on television whites commit 90 percent of the homicides and most of the violent crimes. As Bruce Sallan, former ABC vice president has said "Almost every villain you see [on TV] is a WASP."

Nor is this an accident. It is the result of a calculated effort.

David Horowitz and Peter Collier are co-editors of Heterodoxy.

• Last April, NBC broadcast a made-for-television movie called *Moment of Truth: Why My Daughter?* It was the true story, filmed in documentary style, of a mother's search for justice after her daughter was raped, tortured, and killed. But the producers made one small change in translating reality to the screen. The real rapist/killer was black. For television he was made white.

• NBC made a similar switch in a "fact-based" television movie called *Nightmare in Columbia County*. When a young South Carolina girl was kidnapped and held hostage, a man decided to impersonate the kidnapper and extort money from the anguished family. The real life extortionist was black, but NBC made him white.

Even simple gangster films are often written to portray whites in a way that feeds racial paranoia. Laurence Fish-

burne starred in *Deep Cover*, in which every white is a vicious knave and the plot revolves around the blood libel that the U.S. government is conspiring to spread drugs in the ghetto. (The screenwriter, it happens, is white.)

DOES THE derogatory portrayal of whites as racist oppressors have a social impact? We think it does. Anger leads to action. There is a connection between socially sanctioned racism and other facts — the Los Angeles riots, for instance. Another Fishburne movie, *Boyz n The Hood*, featured a speech by the hero again accusing the government of conspiring to spread drugs in the ghetto. It accused Koreans of conspiring to buy the ghetto's real estate out from under the black community. If these libels did not inflame passions in Los Angeles, we don't know what would.

The politically correct will predictably condemn the exploration of these ideas. It is unfashionable to discuss sanctioned forms of racism. Yet not to discuss them is to enter into another kind of conspiracy. The failure to speak clearly in the past has helped to create the present situation in which fabricated racism feeds directly into the real thing. If there is a new racism in America it is one that is based on double standards and special preferences, along with a sentimental attachment to persecution, that add up to a kind of social blindness.

We think Hollywood contributes to these double standards by portraying the white community as more vicious, racist, and mean spirited than in fact it is. We do not think such distortion serves the interests of racial harmony or of the black community. CPR

Academe

Of Bruins and Humbugs

What's In, What's Out — The Direction of Higher Education

William R. Allen

PUBLIC UNIVERSITIES in California have been recently assaulted and subverted by aggressive know-nothing intellectual ragamuffins.

Consider shenanigans involving departments in two schools. At a conspicuous university in the southern part of the state — a neighbor of Big Bear Mountain, it can here be delicately given the *nom de plume* of Bruin U — mobs and politicians loudly sought to convert a Chicano Studies *program* into a Chicana/o Studies *department*. At a less conspicuous school in the northern

part of the state — call it Humbug U — administrators have slyly suppressed the systematic study of economics, obliterating the Department of Economics.

Both efforts — expansion of one program at Bruin and contraction of another at Humbug — have largely succeeded. And the successes have disarmingly wounded an already weakened state university system.

There has long been sporadic pressure for a Chicano department at Bruin U. But the demand has been more political than professional. Resources and learning opportunities have been available for years, with a great variety of

courses in both a Chicano Studies program and a Latin American Studies program. Degrees are offered in both. But all this, along with the lure of instructors handing out ridiculously high course grades, attracted only a minute number of majors. Last spring, an element of agitators decided that the time was ripe — when university finances were in desperate straits — to make the grandstanding push for departmental status and budget commensurate with the bloated grades. (See Professor G.B. Tennyson's meditations in "Criticus," CPR, Summer 1993.)

Along with mob hooliganism, including a trashing of the Faculty Cen-

William R. Allen is a professor of economics at UCLA.

ter, the key offensive tactic was a hunger strike on campus. Nine sensitive and heroic souls — a faculty member, five Bruin customers, and three outsiders — offered their bods in promotion of the life of the mind.

ON THE fourth day of the fast, I spent half an hour talking with five or six of the supportive Chicano students congregated on the selected hallowed portion of the university grounds. They were entirely pleasant. And they were wholly uninformed on, and not much interested in, the various questions I asked:

- What is the substantive content of the departmental proposal? How many courses in what sub-areas would be offered, given by how many professors, with what degree requirements?

- Is this department, like all others at Bruin U, to be a research, as well as teaching, unit, offering graduate degrees?

- Would the department duplicate, with its own specially hired faculty, courses now available — e.g., International Economics — in other departments?

- To what extent is the focus and thrust to pertain to Mexico and how much to the Chicano experience in the United States? Is the major underlying purpose to provide specialized, sophisticated education to Chicanos or to provide general, elemental introduction to non-Chicanos? Is the essential idea to enable young Chicanos to “find themselves” and revel in their culture or is it largely to equip them to be productive in the larger society and thereby prosper?

- Is this single department to be the intellectual and cultural counterpart (and counterweight) of all the rest of the huge campus — and, if so, doesn't that imply that it must be an interdisciplinary program and not a conventional, tightly defined department?

- Can there reasonably be a Chicano department without introducing also departments for blacks, Asians, Jews,

women, homosexuals (and straights) — and perhaps one for white, male Protestants?

The budding scholars acknowledged their innocence on all such issues of purpose and procedure, but insisted that it was somehow vitally important to have their own “autonomous” department. They did not reply to my observation that evidently they wanted simply to gain departmental administrative status and only then would they begin to wonder about what to do with it.

It has been embarrassingly apparent from the outset — and later was made explicit — that the Chicano movement and its political and community support has nothing in essence to do with scholarship, learning, teaching, research, and analysis: it is wholly about domineering, getting a slice of the action, getting on the 6 o'clock news, and controlling some wealth created mainly by others. It has nothing to do with constructively joining forces, with assimilation or melding into a broader, more encompassing community of scholars; it is, instead, calculated invasion and manipulation, a taking-over and a casting-out of an institution and its purposes, strategies, standards, and ethos which have, by and large, served society very well for a long time.

An eminent legal scholar was asked what is the best undergraduate background for law school. He replied that the major field was less important than certain personal qualities and characteristics: if the student can read and write effectively and will work very hard, he can do well in study of the law.

But, the scholar continued, the undergraduate major is not a trivial matter, and the most appropriate specialization is economics. The major reason for the attractiveness of study of economics as background for study of law is not *subject-matter* — although economics and law mesh well in substance. More important is *methodology*, the technique of logical thought. Eco-

nomics majors are used to dealing systematically with formal models of definition and relation; they are oriented toward rigorous deduction and empirical testing; they are, in short, problem-solvers.

For years, ol' Humbug U has belittled and suppressed the study of economics. Now, they have effectively suspended the major in economics, abolished other campus programs in economics, and reduced the economics faculty essentially to two teaching positions.

The school has severe budgetary problems, to be sure, but while trashing economics, it has introduced 174 *new* courses in the last two years, including “Sex, sexuality, and power,” “Eating disorders,” “Lesbian studies,” “Tap dance,” “Native American women literature,” “Religion and Feminism,” and “Inspiring grass roots empowerment.”

More courses are offered in Psychology than in Economics, History, and Political Science combined. There are four times more courses in Sociology than in Economics, along with some three times as many in Journalism and in Speech Communication. More are given in Native American Studies, in Ethnic Studies, and in Recreational Studies than in Economics, and as many in Women's Studies as in Economics. There are more in Music and in Physical Education than in Mathematics, Chemistry, Physics, and Economics together.

CERTAINLY, THERE is more to life — even the life of the mind — than elegant solving of well-specified puzzles. But the historian, political scientist, sociologist, anthropologist, or litterateur who is innocent of the elements of economic analysis is much less useful than he could be, and upon occasion will naively do harm.

Similarly, there is more to public policy and community survival in an unfriendly world than economics narrowly conceived. But we will mislead

ourselves, divert and dilute our efforts, and waste our resources if we do not consistently and pervasively think in terms of such economics concepts as scarcity, alternatives, choices, costs, and productivity. If we are to save ourselves and prosper, it will be through the hard-headed "economic way of thinking," not by ethereal navel-contemplation and mushy-minded lurches in

incoherent efforts simply to be sensitive and do good. One might suppose that university administrators would have some comprehension of all this. But evidently it is far too subtle for the petty and provincial paper-shufflers at Humbug U.

EDUCATION AND intellectual professionalism are activities and com-

petences of some sophistication. Their promotion and attainment require and reflect a degree of refined acuteness. They are not likely to be developed effectively through the treacherous mischief of callow mobs, or conniving politicians, or contemptuous or cowardly administrators. Bruin U and Humbug U have been raped — and many there have enjoyed it. CPR

The Working Press

The Hive Strikes Back

The *Chronicle's* Deviations From Liberal Orthodoxy May Be Yesterday's News

Tim W. Ferguson

THIS COLUMN has paid particular attention to a refreshing stream of articles from the *San Francisco Chronicle*, which despite its stigma as a lightweight has become the most politically interesting paper in the state. However, this tide may be yesterday's news.

A series of management changes over the last year included the departure of Richard Thieriot as CEO of Chronicle Publishing Company. He and some other members of the owning family were pushed out largely because their management was blamed for financial losses at what ought to be a gold mine. The *Chronicle* itself is the 10th largest paper in the United States and dominates an affluent, if recession-tinged, market.

Thieriot was no crusader. He held back changes that could have made the new *Chron* a more powerful voice and he kept it too close to powerful local interests. But he did do something rare among U.S. publishers: He insinuated in his journalistic ranks conservatives and others who, if not actually to the

right, are disposed to look at stories in ways that challenge the liberal orthodoxy of the modern newsroom.

These "Thieriot hires," as they are called, were responsible for most of the pieces spotlighted in this space. They have not, however, been welcomed by what is, after all, still a San Francisco editing desk. They are hassled over "ideology," or told their stories are too policy-oriented. Instead of analyzing how government spending or economic controls diminish social wealth, they are effectively told, why don't you write about people being victimized by The System or about the political personalities of the day? In other words, join the journalistic Hive as the *Chron* bids for membership among the "respected" metro dailies of our time.

The quirkiness of the paper always has been its distinction, and probably made the introduction of some un-PC approaches easier. Now we will see whether the *Chron* gets better or just predictable. Nan Tucker McEvoy, doyenne of the ownership clan, has actively taken the paper's helm. She was a longtime Georgetown liberal (trust funders are far flung) once identified in a *Wall*

Street Journal news account as "a former journalist, Peace Corps administrator, and founder of an abortion clinic." Under her stewardship, the editorial pages have moved quickly left, with the staff given rein to support every tax increase in sight.

In the final Thieriot days, the *Chronicle* had apostatized with endorsements of Governor Wilson's welfare-spending control initiative and of some actual Republicans. (In the old days, it was considered a Republican contrast to the Democrat line of Hearst's *Examiner*, but this was when Milton Marks reflected the local GOP.) The last straw was its endorsement of George Bush in 1992.

NAN MCEVOY will be able to reconstitute the editorial and news payrolls, perhaps borrowing from the muckraking of the latter day *Examiner*. Less identifiably liberal publishers than she have seeded their newsrooms with tribunes of the left to the general delight, and not consternation, of the Hive. It was when Mr. Thieriot did the opposite that hackles were raised (and our interest kindled).

Tim W. Ferguson is California Political Review's press critic.

Journalists, like most liberal-arts graduates, can be expected to have a bias for social change. The most that the intelligent right can hope for is some representation among the daily informational buffet. It was getting more of that in the *Chronicle* than anywhere in the West, outside of the *Orange County Register's* editorial pages. Can this opening survive in San Francisco?

The *San Jose Mercury News* found an injustice worthy of political attention in the seizure laws that have permitted cops and prosecutors to collect houses, cars, and just plain cash from suspects not convicted — and sometimes not even arrested. The paper's crusade resulted in the expiration of the expansive powers in effect for four years, as the Legislature reverted to a more reasonable statute in effect until 1989. Meanwhile, the *Merc* was on target with an exposé of how various state agencies, especially the Department of Corrections, are using bond schemes to go well beyond — and in some cases contrary to — the expressed wishes of voters.

The Knight-Ridder outpost also found front-page space for a good pair of articles about the many Taiwanese who return home from America to start businesses but leave their families here, where life is better and cheaper. Joel Kotkin has written about this phenomenon in other forums, but otherwise this is a new take on the immigrant experience in the United States. Once there's a social program for the "latch-key families," maybe we'll see more ink Also, give the *Mercury-News* credit for one of the year's better headlines, on an early Heidi Fleiss story: "Sex scandal has L.A. quivering"

PERHAPS IT was neighborly curiosity that sent Gordon Smith of the *San Diego Union-Tribune* north of Camp Pendleton for a two-part series on "Orange County: A new kind of urban." But the result was a Mike Davis-

like spin on urban-suburban angst that most of all left the reader wondering why it was necessary to drive 90 minutes from the home office to find that. The answer may be found in passages about "sprawl" and "congestion" that help some San Diegans feel a little more smug. It will be interesting to see which of the two counties comes out of the recession faster

At the *L.A. Times* the biggest news was a possible sale of Times Mirror Square to the Department of Water and Power, which would permit the slimmed-down *Times* of Lavenhol, Coffey & Co. to occupy high-rise space in a better part of downtown and perhaps, just perhaps, not have to keep all those janitors and other building-support people on the payroll. One wag inside the Gray Whale (more of a Plump Porpoise, these days) saw the prospect of DWP inhabitation of Harry Chandler's old digs as a fitting end-game for "Chinatown"

The *Times* caught on to a racket at the Los Angeles County hospital whereby foreigners — not even residents of the United States, legal or illegal — fly in for expensive surgeries at local taxpayer expense. Evidently our public facilities, so scorned by Americans used to the cushiest medical care in the world, are quite acceptable to outsiders, even if they aren't poor. And you can't beat the price.

Also on the trail of taxpayer abuse was the *Orange County Register*, with a series on bogus disability claims under Social Security. One story noted how alcohol and narcotics addicts can get up to \$620 a month for life. The *Register* has been particularly good at exposing the fraud-ridden underbelly of the welfare state (it's so much more than just AFDC), which in California is now a con often practiced by manipulating hungry immigrants into applying for benefits of which others get a piece. Speaking of which, the *Register* also bannered a nice spot story on how

the worker-comp industry had funneled \$220,000 to top state politicians (including Governor Wilson) since 1989

The *Times's* Sacramento columnist, George Skelton, completed a round of friendly profiles of the top dogs in state lawmaking. The villains in this saga seemed to be the voters who have fixed it so these guys will be taking a hike soon. Next thing you know the louts will be passing term limits for journalists

POLITICS BRINGS us to the regular *Times* PC competition. As usual, the entries were legion but the "View" section led all others. It gave us 100 Sunday inches on a sad sack who used to sell his slick talk to managements fighting unions (presumably the *Times* used better against its pressmen) and now struggles to redeem himself by plying the other side. "We Are Being Beaten" was the big headline on another day, and no, it wasn't a Sports report on the Dodgers or Rams, but "View's" look at black women getting whopped by black men. The editors found a way, somehow, to work "racism" into the subhead. "Metro's" entry poignantly illustrated three youths "rebuilding their lives" after they were rudely tossed out of the L.A. schools for weapons possession.

But the winner was a teary news account of the aftermath of a freeway accident that killed seven young graffiti vandals in a pick-up truck. As their friends raised money at a car wash for their funerals, the *Times* accorded the dead the euphemism "taggers" and barely touched on the central question of their miserably short lives: Where were the adults, including their parents? The *Times* printed a few letters bearing witness to the fact that, in much of middle-class Southern California, these deaths were far from mourned. Such is the poison that graffiti leaves behind. The *Times* will probably seize on that in some future look at white supremacy on the loose. CPR

THERE WAS a time when public schools devoted themselves to helping the children learn without regard to the teachers' personal ideology, self-interest, or political agenda. But as Tom Hayden likes to say: "That was then. Now is now." As violence has soared and test scores have plummeted over the last 30 years, public schools are now not so much seen as the last best hope for a free society but rather as a major cause of its steep decline. And a lot of the blame goes to teachers unions.

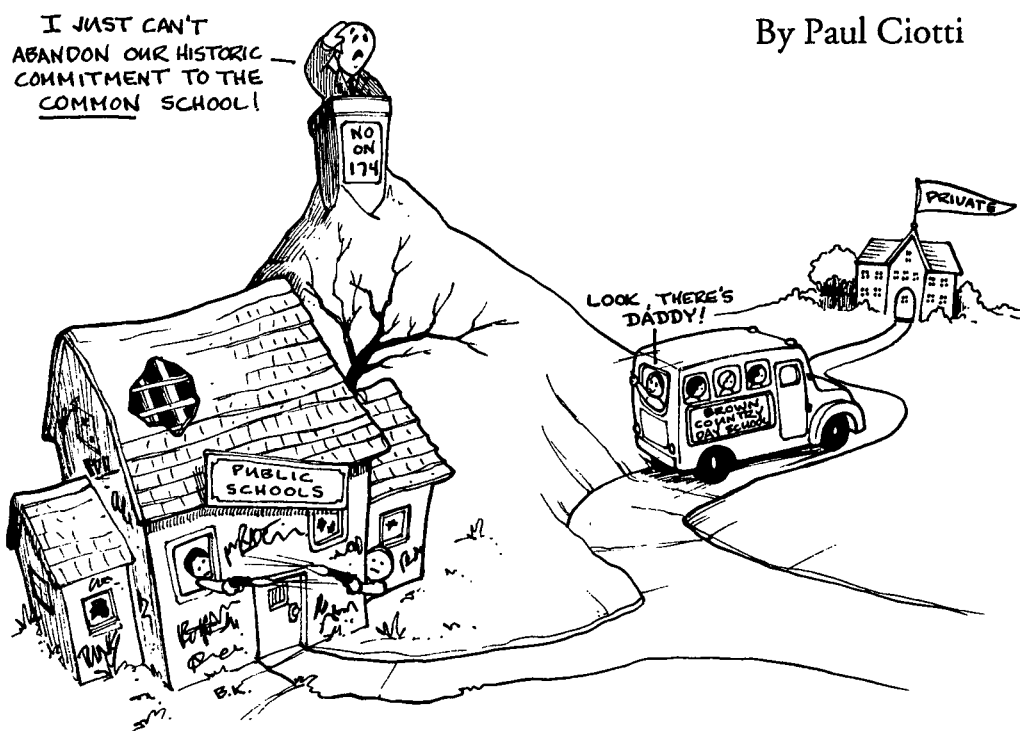
Instead of standing up against pressures to lower standards, eliminate discipline, and demoralize the schools with ideological fads, teachers unions have often supported some of the most destructive tendencies in public education while simultaneously fighting tooth and nail such genuine reforms as competency testing, merit pay, standardized testing, decentralization, parental authority, and, most especially, that 800-pound gorilla of educational reform — school vouchers.

ONE WOULD think with its 230,000 union members and its bulging \$10 to \$15 million-plus war chest, the California Teachers Association (CTA) wouldn't be so visibly hysterical about Proposition 174, the lightly-funded and bitterly-criticized voucher initiative. But ever since Proposition 174 qualified for the ballot last summer, CTA President Del Weber has been a whirlwind of pejoratives, calling the initiative "dishonest, divisive, and destructive," "a cynical fraud," "an evil measure," and "the single greatest threat ever to face school children in California." Acting state Superintendent of Public Instruction William D. Dawson de-

Paul Ciotti is an author and screenwriter living in Los Angeles.

ONE UNION'S WAR AGAINST CHOICE

By Paul Ciotti



"There are some proposals," said CTA President Del Weber, "that are so evil they should never even be presented to the voters." Why has this vastly wealthy, enormously powerful organization become so hysterical about 174?

scribed it as "a giant meteor crashing toward Planet Education." United Teachers of Los Angeles President Helen Bernstein called it an educational "Armageddon." There can't be any holding back on this one, she told her troops — "without decisive action there will be no tomorrow."

The reason is, unlike the warm-milk-and-sugar-cookie reforms of the past, vouchers actually have the power to transform the system. "Most

other reforms they can handle," says Stanford political scientist Terry Moe. "New tests, new curricula, or even school-based management doesn't threaten the system. But vouchers revolutionize the system and they can't allow that."

The unions' primary fear is loss of jobs. If just one percent of parents inside the Los Angeles Unified School District (LAUSD) chose to vote with their feet and take their vouchers to a

private school, the district would lose 6,000 students, 200 teachers, and an equal number of staff, support, and administrative jobs — a terrifying prospect to any union head. Even so, the district could easily weather such a minor yearly defection (especially since the school population in LAUSD is expected to increase 30 percent from its current level of 644,000 students in the next 10 years). Unfortunately, the public schools suffer from what Whittaker Corporation CEO Joe Alibrandi calls the “Berlin Wall syndrome” — the notion that if the schools open the door to let anyone at all out, then everyone will go.

“Look at it from a business standpoint,” says Alibrandi. “I (the California public schools) have 5.4 million kids. The competition (private schools) has 500,000. I have 90 percent market share. And yet they — this big towering gargantuan — is scared of [any competition].”

What, wonders Alibrandi, do they know that I don’t?

TO ASK the question is to answer it. The schools are collapsing; the teachers have lost their moral authority; to avoid embarrassing comparisons between the test scores of middle class white kids and poor inner-city blacks, they have de-emphasized grades and promoted self-esteem; rather than expel students who bring guns to class, until this year the LAUSD merely reassigned them to other schools (and then didn’t tell their new teachers the reason for the transfer); unable to convince kids that they have anything valuable to

offer them, schools do everything but stand on their heads to keep the students interested. (As a recent *Los Angeles Times* article incredulously pointed out, one Los Angeles junior high school currently offers courses in

schools, you have 30 percent dropping out. Fifty percent of the rest at best get a seventh grade education. And what happens? No one gets fired. Nothing gets changed.”

And this in spite of the fact, says

Ken Khachigian, chief strategist for the “Yes on 174” campaign, that “our verbal SAT scores are the lowest in California history. Our dropout rate is worse than 43 other states. Half of all California school systems are operating in the red. They can’t even balance their budgets.”

Fifty years ago the biggest problems in Los Angeles schools were

talking in class, chewing gum, and running in the halls, writes Laura Locke in the *California Journal*: Today the biggest problems, students say, are suicide, assault, pregnancy, rape, and murder. In fact, in many public schools, points out former Secretary of Education Bill Bennett, kids are far more likely to “get impregnated if girls or shot if boys” than graduate with a good education. Sixty-three percent of applicants for entry level positions at Pacific Bell can’t pass a seventh grade knowledge level test in reading, writing, and math, says Khachigian. “We are turning out rivers of people who can’t do anything at all,” despairs John Gatto, an award-winning New York City teacher turned lecturer and author.

Although defenders of public education routinely blame their poor showing on inadequate funding, as critics have often pointed out, many of the problems of public school have little to do with money. Parochial schools, for instance, routinely get by on barely half as much money and do

*‘Today in the public schools, you
have 30 percent dropping out.
Fifty percent of the rest at best
get a seventh grade education. And
what happens? No one gets fired.
Nothing gets changed.’*

baseball card collecting, movie watching, and playing board games.) No wonder, according to American Education Association President Keith Geiger, 40 percent of urban area teachers now send their children to private schools. In Los Angeles, according to the American Enterprise Institute, the figure is 29 percent.

“My god,” says Alibrandi, who was one of the people most responsible for getting Proposition 174 on the ballot. “If 30 to 40 percent of the people in my company bought the competition’s product I’d be damn worried.”

Instead, says Alibrandi, the educational establishment’s reaction is to wrap itself in the mantle of public schools, America, and apple pie, even as the schools collapse around their feet. “I could tolerate that in the DMV,” says Alibrandi. “I can tolerate it in the post office. But here we are talking about generations of kids going down the drain and that is too high a price to pay to maintain some bureaucracy. Today in the public

a better job. One reason is that they have a commitment to discipline in the schools. "They don't allow children to rule the classroom like an educational version of *Lord of the Flies*," says the Claremont Institute's Lance Izumi.

The public schools in contrast have lost the conviction that they have even the right to tell students what to do. "The kids own the schools," one discouraged LAUSD teacher told *LA Times* reporter John Johnson in a recent major report on schools in LA. Unlike previous generations, there's no fear of teachers and precious little respect. On some campuses male teachers hesitate to give female students homework or low grades on tests for fear they will report them for sexual abuse. There are some corners of the playground where it isn't safe to walk.

Howard Wang, founder of the San Fernando Valley's elite Sierra Canyon School, says that when he visits some high schools in South-Central Los Angeles as part of an accreditation team, he is appalled at their physical condition. "Prisons are better kept than these schools," says Wang. "At one school on the second floor, all the windows had been knocked out. I asked them, 'Why don't you fix the windows?' 'We can't,' they said. 'People throw things through the windows at night.'"

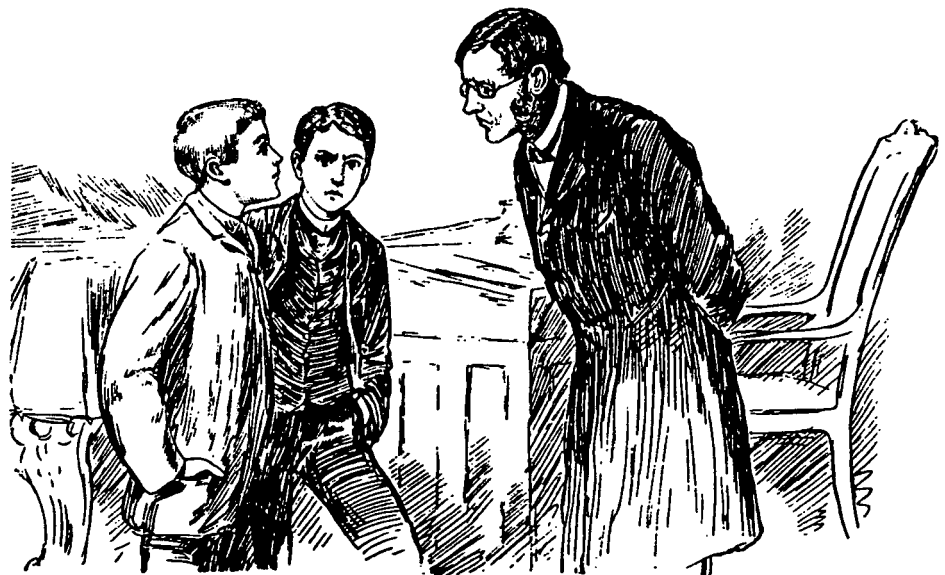
JOHN PEREZ, a secondary vice president with United Teachers Los Angeles (a daughter union of the CTA), complains that his union would dearly like to get rid of violent or disruptive students. Unfortunately, he says, it's "illegal." The state constitution says that every kid is entitled to a free public education. There's due process. The parents would sue. "We don't make the rules but we have to live by them."

The notion that teachers unions are constrained by arbitrary rules made by a distant and unresponsive state Legislature strains credulity for people who have ever seen the CTA lobby work its will in Sacramento. "The CTA is an adjunct of the Democratic caucus," says San Jose Assemblyman Charles Quackenbush. "They run the Legislature." If state law prevents the expulsion of discipline problems in public schools, it's because the teachers unions prefer it that way. And they prefer it for the same reason they oppose letting parents have vouchers to go to private schools: it would cause enrollment to drop and thereby cost their members jobs.

Teachers union officials worry about keeping students in the schools the way German shepherds worry about the straying of their sheep. When Governor Wilson recently proposed pushing back the start of kindergarten to save money, the CTA didn't just object — it countered with a television ad campaign showing a tearful child being turned away from kindergarten. It's also the reason, says Myron Lieberman, a former teacher and union member who has just published a book on public edu-

cation and the free market (*Public Education: An Autopsy*), that teachers unions oppose the notion of a sub-minimum wage for teenagers — it would enable indifferent and disinterested students to drop out of school and find entry-level work appropriate to their skill level, thereby reducing the need for teachers and union members.

DESPITE ALL the time scholars spend studying the decline of the schools, they tend to neglect one of the most obvious reasons of all. "Public schools are the last great vestige of socialism in America," points out John Nelson, a Sacramento consultant who does opposition research for the "Yes on 174" campaign. Teachers and administrators are buried under a blind monopolistic system of rigid central control (the California Education Code is three times as large as the IRS code). If any business were run the way the LAUSD runs the Los Angeles public schools it couldn't survive six months. But the LAUSD lurches on decade after decade enthusiastically handing out condoms, awarding A's for little more than showing up for class, and then at graduation proudly conferring diplo-





mas on kids who can't read them anyway.

A June 1993 management review of the Los Angeles Unified School District by the Arthur M. Anderson company found that LAUSD routinely violates virtually every principle known to American business. The district has "excessive layers of management" choked by "unclear lines of responsibility" and "bureaucratic red tape." It doesn't use "objective performance measures" to hold people accountable; it performs "little long-term planning;" its decisions are "driven by rules rather than customer needs."

ONE WOULD think the educational establishment would be appalled by the effect such conditions have on student achievement. But when educators or union officials are challenged on these grounds their first reaction is to become irate that anyone would blame them just because their students don't learn. "Am I responsible because kids come to school unfed, underclothed, abused because of an alcoholic parent or because the family is so poor they have to pick crops in the middle of the semester?" UTLA president Helen

Bernstein told the *California Journal's* Stanley Moss last year. "Am I responsible because someone threatened them on the way to school? Am I responsible for 60 percent of kids on class roll in September not being there in June?"

"Educators ... have not as a group failed society," wrote Arizona State University Professor David Berliner, in a recent irate attack on the critics of public schools. "Rather it is society that has failed educators."

("Yeah right," says Alibrandi. "If you produce lousy automobiles, blame the driver.")

In the early 1980s, when Joe Alibrandi, in his capacity as chairman of the Business Roundtable's Education Task Force, first tried to do something about the depressing effect of public education on both individual happiness and business productivity, his initial idea was to work with educators and teachers unions in order to pass a major reform bill. But it soon became clear, says Alibrandi, he and the educational establishment had radically different approaches to solving the problem. "As long as we talked about getting more money, more staff development, smaller class size, they gave us full support across

the board but as soon as we began to talk about parents having a choice, or teacher qualifications or merit pay — whoops! — that was anathema."

IN 1989, having been involved in two or three subsequent projects, all of which were ground to powder in the public school maw, Alibrandi put together a committee of 15 or 20 people to write a parental choice initiative that would be independent of public school input or control. This initiative (the voucher plan) caught the eye of state Superintendent of Public Instruction Bill Honig, who in the summer of 1990 showed up in Alibrandi's eighth floor conference room to offer the voucher committee a deal: If the committee was willing to restrict its initiative to the public schools, Honig would help get it through the Legislature. "But if you include outside schools," said Honig, "we will oppose you tooth and nail. We have \$14 million and we will bury you."

In the end, the voucher committee turned down Honig on the grounds that a choice plan limited to public schools was no real choice plan at all. "That is like saying you can buy any kind of car you want as long as it's GM," says Alibrandi, "that you can go to any restaurant you want as long as it is McDonalds."

The CTA reacted swiftly to the rejection of the Honig compromise, contacting every educator or businessman on the Alibrandi committee (by then called EXCEL, the Excellence Through Choice in Education League) and telling them that the CTA no longer considered them friends of public employees. "As a matter of fact," says Alibrandi, "they effectively cut off second contributions from a lot of those people. One of those guys said to me, 'Joe, if I wake up in the morning and there are

a lot of teachers picketing my business up and down the state, I am out of business.' Someone else said, 'The most expensive contribution I ever made was the one I made to Proposition 174.'"

Even so, this kind of harassment was small potatoes compared to their master plan to keep the voucher initiative from ever reaching the voters. As CTA President Del Weber later explained at the 1992 summer convention of the National Educational Association (the CTA's parent union), the CTA "decided to do something very dramatic, something nobody has ever tried in the nine decades that the initiative has existed in this state. We decided to create an organized campaign to block an initiative from getting enough signatures to qualify for the ballot.

"We realized that we would be accused of acting in an 'undemocratic' manner. What was wrong, after all, with letting the people vote on an issue?

"Our answer was firm. There are some proposals that are so evil that they should never even be presented to the voters."

IT WAS not surprising perhaps that a plan that started out contemptuous of the democratic process would ultimately end up mired in allegations of deceit and fraud. Even before the signature gathering campaign started on January 1, 1992, says American Petition Consultants President Mike Arno, he was offered a \$400,000 "retainer" not to represent the voucher initiative. When he declined, the CTA, he said, paid \$500 monthly retainers to rival petitioners to tell them where his people were gathering their signatures. Then when Arno's petitioners set up their tables, flying squads of activists would appear to harass his field work-

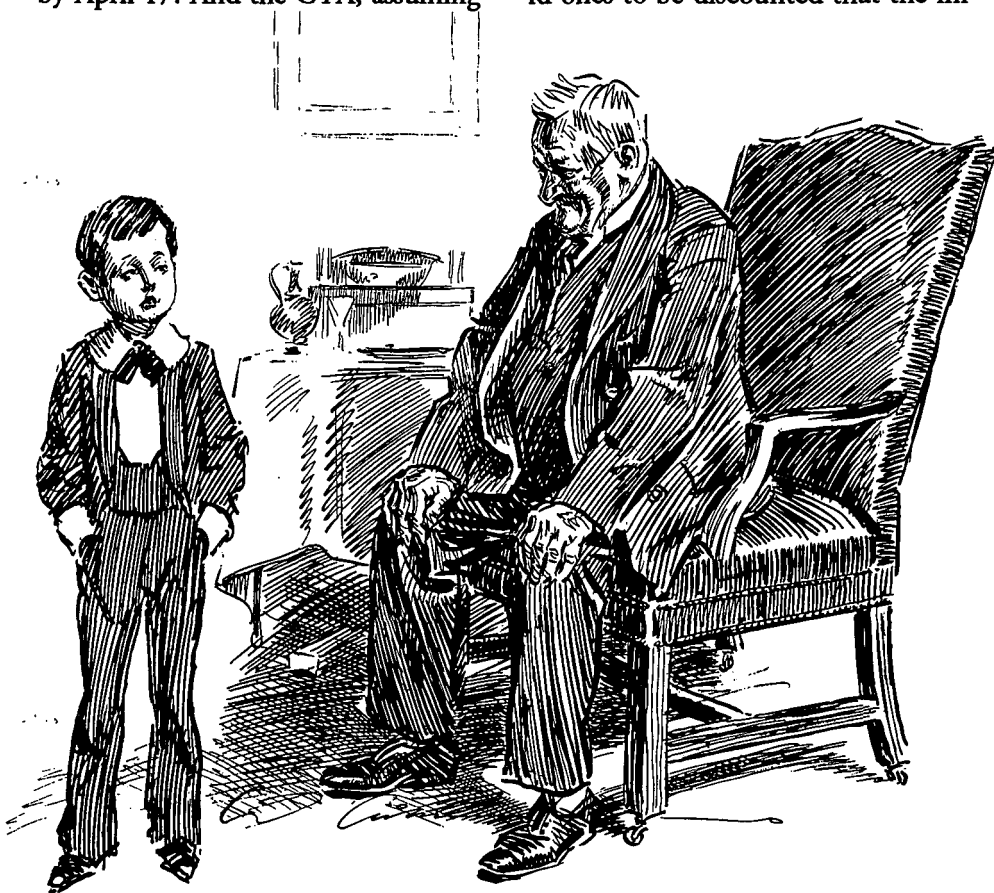
ers, argue with potential signers, join hands and surround the signature gatherer tables, threaten "to send [petitioners] to the hospital" and, when all else failed, offer bribes. People who had already signed petitions were asked to fill out forms asking to have their signatures removed from the ballots.

The blocking campaign was so successful, says Arno, that when he once ran into one of his petitioners at K-Mart, the man didn't even dare to have the voucher petition out on the table with all the others. "Are you carrying it?" asked Arno. The man looked around and nervously pulled it out of his briefcase. "Sign it quick," he said, explaining that the activists harassed him so much when he left it out on the table that he couldn't make a living.

The Secretary of State had suggested that all petition gatherers wrap up their signature gathering campaigns by April 17. And the CTA, assuming

its strategy had been successful, dismantled its blocking operation. In the meantime, because voucher proponents still needed several hundred thousand signatures to qualify for the ballot, they continued to work for another three weeks gathering a total of 927,000 signatures (617,000 were needed to qualify). Without the teachers obstructing them in the field, Del Weber ruefully commented, "the pushers had a field day."

EVEN SO, once the signature gathering phase ended, voucher proponents were in for a rude shock. In San Diego, says Arno, an attempt was made to sabotage the petition drive. Thirty-two people signed the petitions 10 times or more. Many more signed seven, eight, or nine times. When the San Diego County registrar of voters did her sample count, the formula she used for disqualifying invalid signatures caused so many valid ones to be discounted that the ini-



tiative failed to qualify for the November 1992 ballot.

Initiative backers were furious, as was the registrar of voters for San Diego County, Conny McCormack who, calling the situation an "unprecedented case of intentional fraud," sent a letter to the San Diego County district attorney's office. Five months later, District Attorney Edwin Miller Jr. mailed back a report, saying his office had found no evidence to support allegations of a conspiracy on the part of voucher opponents and suggesting instead that the signature gatherers might have been less than "scrupulous" about asking people to sign.

Although a subsequent full count showed that the initiative had indeed qualified for the next election, initiative backers are still fuming about what they regard as the cavalier attitude displayed by the San Diego district attorney. The only investigation the DA did, says "Yes on 174"

spokesman Kevin Teasley, was ask people who had signed multiple times if they had done it intentionally. If they said no, that was it, end of investigation. They never called the initiative backers, American Petition Consultants President Mike Arno, the CTA, or the *Wall Street Journal* reporter who wrote a story saying he had talked to people who admitted trying to invalidate the count. "Whom did they investigate?" asks Teasley.

At the same time that activists were attempting to prevent people from signing petitions, teachers were engaging in small scale guerrilla actions all over the state. In the Tustin Unified School District, school personnel were mimeographing anti-voucher fliers and sending them home with the children. In San Francisco, when one group of signature gatherers circulated petitions outside a church (with the minister's permission), one woman became so angry, says Mike Arno, she tried to "duke it out" with the minister. "We filed suits against seven school districts because they were sending students home with [anti-voucher] leaflets stapled to their homework," says Ali-brandi.

Once the initiative qualified, the CTA expected to face it in the June 1994 election, but then Governor Wilson called a special election for November 1993. In preparation, the CTA kicked its anti-voucher campaign into high gear, assessing its 230,000 members a \$19 per year anti-174 surcharge for the next three years, putting "informational" literature in every school in California and assembling a coalition of some 200 educational, professional, political, and governmental organizations. ("The most extensive coalition of public interest groups ever assembled behind any initiative campaign in

California history," says anti-174 spokesman Rick Ruiz.)

TAKING ADVANTAGE of its near unique ability to mobilize bodies in every district in the state, the CTA flooded the state with 140 phone banks (covering everything but the desert and the lightly populated northeast counties). It printed buttons for teachers and sent home anti-voucher fliers in kindergartners' knapsacks. It trained a speakers corps to address everyone from Ross Perot's United We Stand to fundamentalist church groups ("Do not debate the quality of public education in California," speakers were told. "Keep your focus on what is wrong with 174.").

To guard against the possibility of a low teacher turnout, it started an absentee ballot drive ("so no teacher will have any excuse not to vote," says the CTA). It created a series of anti-voucher radio ads, TV spots, and printed bumper stickers, buttons, newsletters, and brochures by the truckload. And just in case anyone still missed the point, the September back-to-school issue of *CTA Action* carried 21 different articles, columns, sidebars, and jeremiads attacking 174.

So far the campaign is working just as planned. According to CTA Assistant Executive Director Ned Hopkins, an internal poll showed that 80 percent of teachers were planning to vote against Proposition 174, which, says Hopkins, is an astonishing and unprecedented show of unanimity for his union — "We have never had 80 percent of our members on one side of anything in history."

One thing that has always puzzled people familiar with the CTA is that its official politics don't come close to reflecting those of its membership. Although 35 percent of CTA mem-



bers (and its current president, Del Weber) are registered Republicans, its orientation isn't just mildly left of center, it's "rabidly liberal," says Sacramento campaign consultant John Nelson. "They give 92 percent of their money to Democrats. They have consistently advocated tax increases to augment the education budget. The CTA co-sponsored Proposition 167, a bill which would have increased taxes on corporations at a time when California is suffering the worst recession in most people's memory."

For an organization purportedly dedicated to education they take positions that consistently undermine the ability of school principals to maintain standards and enforce discipline. They oppose dress codes, standardized tests, ranking of schools by test scores, home schooling, teacher testing as a criterion for job promotion, and any plan to rank teachers according to their competency. They recommend that teachers not sign petitions for charter schools (designed to give parents, teachers, and principals more autonomy). They oppose selling or leasing unused school buildings to private schools. They routinely block any bills that would allow financially strapped school districts to use parents to rake leaves, mow grass, or paint the school. Although they give lip service to the notion of greater parental involvement (the single factor with the strongest correlation to student achievement), in practice they flee from it as a vampire flees the dawn. (Teachers don't like to be bothered by parents, says one Glendale school teacher. "They interfere with our mission.")

What is their mission?

In a June 1984 pamphlet entitled "Guidelines for Academic Freedom in the Public Schools," the CTA Tenure and Academic Freedom Committee argued that one of their goals had to be to oppose the New

'Do not debate the quality of public education in California,' speakers were told. 'Keep your focus on what is wrong with 174.'

Right's emotional appeal to social issues. "Who dares take on religion, free enterprise, patriotism, and motherhood?" argued the Academic Freedom Committee. "We do — and we must!"

Lots of organizations complain about things they don't like, but the CTA puts its money where its mouth is. "The CTA is the biggest spending lobby in the state," says Stanford's Terry Moe. "It's virtually impossible to get something out of the Legislature that the CTA opposes."

Two reasons: The CTA donates vast sums to Assembly Speaker Willie Brown to distribute to Democrat candidates. And secondly, the CTA's political director is Alice Huffman, a long time political activist (she was once state chairwoman of the Black American Political Association of California) with such close ties to Brown that newcomers to Sacramento sometimes assume she's a member of his staff.

Although the CTA has been around now for nearly 130 years, it dates its recent heady rise to power to the election of President John F. Kennedy who in return for National

Education Association campaign support, quickly signed an executive order permitting collective bargaining for federal employees. Similar changes quickly followed at the state level until today, in the words of *Forbes*

Senior Editor Peter Brimelow, teachers unions today enjoy a highly enviable status, that of "near-monopoly supplier to a government enforced monopoly consumer."

At present, the NEA's power is at an all time high with 2.1 million members (the largest union in the country) and an annual budget of \$165 million. It donated \$3.5 million to promote Clinton for president. In return, Clinton promised them if he became president, they'd be his partners: "I won't forget who brought me to the White House." This is one instance in which Clinton has actually kept his word. Whereas as governor of Arkansas, Clinton supported parental choice, competency testing for teachers, and had even once written a flowery letter to Milwaukee choice advocate Polly Williams calling her a "visionary" for her efforts to provide vouchers to inner city children, once he became a presidential candidate he attacked vouchers as a "fad" which would take "precious resources" from public schools. After the NEA helped elect Clinton president (one of every eight delegates to the Democrat National convention was an NEA member), Clinton returned the favor, according to *Newsweek* magazine, by inviting NEA members to every single state dinner given by the White House this year.

IN CALIFORNIA, the NEA's daughter union, the CTA is well equipped to influence the vote in that

it can turn out workers on short notice in every part of the state. "Their day ends at 3 p.m.," says Myron Lieberman. "They have summers off. The union representatives can work full time during the campaign." They can man phone banks, walk precincts, or host news conferences. In low turnout school board races the fact that CTA members often vote in a bloc means they can defeat anyone who votes against their interests. After LAUSD School Board member Alan Gershman opposed certain UTLA demands in the 1989 strike in which the UTLA won a three-year, 24 percent salary increase, the UTLA helped raise a quarter of a million dollars to capture his \$24,000 per year part-time school board seat.

Three years later, with the school district in deep financial trouble (largely as a result of the 24 percent raise won by the teachers three years before), the UTLA forced the resignation of LAUSD School Superintendent Bill Anton when he asked the union to take a 12 percent pay cut in order to balance the budget without further cuts in field trips, textbooks, and maintenance.

If you oppose their agenda, Glendale Assemblyman Pat Nolan recently told the *California Journal*, they have a tremendous amount of money "to pour into your district and tell the voters that you hate children."

In the first quarter of 1993, the CTA spent \$2,125,472 on lobbying — more than four times the amount spent by its closest competitor, the California Medical Association. "The CTA likes to argue it's not buying votes, it's buying access," says Sacramento consultant John Nelson. "If that is the case, the CTA has bought itself a gold-plated revolving door of access."

Although the CTA likes to present its own interests as synonymous with

those of children ("what's good for us is good for the kids too"), few people buy that anymore. The truth is the CTA is a labor union, says Maureen DiMarco, Governor Wilson's secretary of child development and education: "They shouldn't be mistaken for an educational organization." *Sacramento Bee* Editor Peter Schrag puts it more bluntly, calling the CTA "probably the most reactionary of the major professional organizations in American education" — "it often resists anything not in its own interests or contrary to established routine."

Consider for example the case of Newport Beach Senator Marian Bergeson who, when she was still in the Assembly in 1981-82, proposed a bill that would allow students in the bottom quartile of school achievement to go to either another public or non-parochial private school, transportation provided.

"It was specifically aimed at low income parents," says Bergeson. Even though the bill satisfied many of the objections the CTA now says it has with Proposition 174 in that it didn't aid parochial schools or help the middle class, the CTA bottled it up in committee. (A decade later when Governor Wilson nominated Bergeson to replace Bill Honig, the CTA remembered her having once flirted with vouchers and blocked the appointment.)

IN 1989, ever alert to the threat of vouchers, the CTA had nine parental choice bills killed in a single day by having them referred to "interim study." Two years ago, Assemblyman



Gil Ferguson of Newport Beach offered a bill to offer \$3,000 scholarships to students from schools that scored in the bottom 10 percent on state standardized tests so that they could attend the private school of their choice. Naturally, says Ferguson, "the CTA was furious. They killed it in the education committee."

They did the same thing to Assemblyman Quackenbush when, four years ago, he first introduced a bill to allow students to transfer between school districts. On that occasion, he says, CTA supporters "vilified" him, delivered "diatribes" against his bill, and claimed that in giving parents the right of interdistrict transfer he was encouraging both white flight and paving the way for vouchers.

For four years straight the CTA opposed Quackenbush's bill. It was only this year — after 174 qualified for the ballot and Quackenbush agreed to a 1 percent cap on the number of students who could transfer out of large districts like the LAUSD each year — that the CTA

dropped its objections and the bill became law.

As to why it took so long for the CTA to pass something that was overwhelmingly favored by parents from every ethnic and social class (according to a 1990 Gallup poll upwards of 70 percent of persons interviewed favored choice), Quackenbush says the CTA needed time to adjust to the philosophical proposition that "children are the property of their parents and not the school district."

ACTUALLY, IT'S not completely clear that the CTA and its educational allies in the fight against vouchers have adjusted to that proposition yet. In a revealing peek at the essentially totalitarian mentality of the educational establishment, the Association of California School Administrators (quoted by K.L. Billingsley in the October *Heterodoxy*) takes the position that, contrary to the beliefs of parental choice proponents, the purpose of education is not to provide individual students with an education but rather only "a means to the true end of education, which is to create a viable social order to which individuals contribute and by which they are sustained. 'Family choice' is, therefore, basically selfish and anti-social in that it focuses on the 'wants' of a single family rather than the 'needs' of a society."

For people who believe they are working for the good of society against the "evil" of the opposition, it's not difficult to justify breaking the law on behalf of what you see as a greater good — all of which may be the reason that reports are flowing into the "Yes on 174" office from all over the state concerning the unethical or illegal use of school equipment and facilities to defeat Proposition 174. After the start of the school year

at Twin Creek Elementary in San Ramon, east of Oakland, school teachers showed up in classrooms wearing "No on 174" tee-shirts and buttons; at the Folsom Cordova Unified School District employees copied an anti-174 flier on school duplicating equipment in violation of state election laws and sent the fliers home with kids; in Glendale, anti-voucher videos were shown in the teachers' lounge; at back-to-school nights, school employees prevented pro-174 people from distributing their literature even though they allowed anti-174 literature to be passed out freely.

"There are a whole lot of examples of the use of public resources and public funds to take partisan positions against 174," says Manuel Klausner, a Los Angeles attorney who represents the "Yes on 174" campaign. "The incidents range from the [illegal] use of letterhead and Xerox facilities of school districts to using the teachers during the workday to send partisan literature home with young school children."

Because the violations are so widespread, says Klausner, the "Yes on 174" campaign has asked the state attorney general to conduct an investigation. And if that doesn't produce quick results, the campaign may resort to filing additional lawsuits. "There is personal liability by any public official for the wrongful expenditures of public funds for partisan political purposes," says Klausner.

Rick Ruiz, press secretary for the "174 No" campaign dismisses reports of illegal use of public funds and facilities saying he neither knows of any such activities nor condones them. "On the other hand," he says, "there are millions of citizens who are very concerned about this initiative, and they all have First Amendment rights. If [the "Yes on 174" campaign] has specific incidents they should bring

them to the attention of the authorities. Otherwise, I think they should try and figure out how they are going to run their own campaign."

What Ruiz is referring to are recent poll results showing Proposition 174 trailing statewide by six points and running no better than even in Republican strongholds like Orange County. Frankly, crows Ruiz, "this initiative is in serious trouble."

So much so in fact, says CTA Assistant Executive Director Ned Hopkins, that the goal now isn't merely to defeat Proposition 714 ("it would only be back in a year or two") but to drive a stake through its heart — crush it two-to-one. "Then," says Hopkins, "this thing would go away and die for 15 or 20 years."

TO POLITICAL scientist Terry Moe, if the education establishment thinks that parental choice is going to go away, they're living in an ivory tower. It's not just Milton Friedman and a few libertarians out there anymore. "Now there is a genuine movement. And it's not just California. It's an expression of something happening around the world. Nations and states are moving away from old style command and control and moving toward free markets."

The education establishment might not know it yet, says Ken Khachigian, but the truth is "they have already lost the battle. The entire state is debating how good they are, debating the bureaucracy, talking about low test scores, violence in schools. They have done such a horrible job and disserved our students so badly that this [whole issue has become] a train heading down the tracks. And whether it gets there now or six years from now it is going to get there and when it does it will sweep the country. That's why they are so frantic."

CPR

California's Crushing 'Tort Tax'

'Litigation,' argues Charles Sykes, has become 'both a proxy and a shortcut to innocence, meaning, and justification: If something has gone wrong, someone must be to blame. And it is not me' — an ethos that has given California surging liability insurance costs, huge legal bills, large settlements, and unpredictable jury verdicts. It is a tax borne by all Californians.

Mark S. Pulliam

It is quite clear ... that there is a desperate need for legislative action in this regard. This area of the law is quickly running out of control and the citizens of California will be the ultimate victims and losers [I]t is clear that commerce in California cannot flourish with ... multi-million dollar verdicts readily attainable If the Legislature fails to act in this area, we can see that, in due course, business enterprises will flee the state.

THESE WORDS, directed to the issue of runaway jury verdicts, were not uttered by the Chamber of Commerce, self-interested defense lawyers, the governor, former Vice-President Dan Quayle, or Peter Ueberroth's Council on California Competitiveness. They were uttered in apparent exasperation by a California appellate court (in *Hunio v. Tishman Construction Corp.*, March 31, 1993). The judges were lamenting the state of the law that they believed

Mark S. Pulliam, an attorney in San Diego, presented a longer version of this report to the Lincoln Club of San Diego County.

compelled them to uphold a jury verdict in a wrongful termination case totalling \$7.1 million (reduced by the trial judge to \$5.1 million). The verdict included \$2.1 million in lost earnings, \$4 million in emotional distress damages (reduced by the trial court to \$2 million), and \$1 million in punitive damages. The trial court also awarded the

plaintiff \$1,163,457 in costs and attorney's fees (at the rate of \$450 an hour) and almost \$600,000 in pre-judgment interest.

The court felt helpless to set aside the verdict or to order a new trial because "under the present state of the law, we can find no error with the jury's verdict in this case Court-made law, imposed without public hearings or a public debate of the issues, cannot be dictated ... by this court." If this is true, where does it leave us? The decision by a California employer to terminate a single employee (actually, the plaintiff in this case wasn't even fired; he quit, claiming that he was denied bonuses and that his duties had been unreasonably reduced) ultimately cost that employer almost \$7 million.

THE PRECISE problem the court identified in this case is the limitless ability of juries to award multi-million dollar verdicts in favor of employees in discrimination and wrongful termi-



nation cases. Was this verdict exceptional? Sadly, although higher than average, it was by no means aberrational. According to one survey, which included 110 jury awards in California from July 1990 to May 1992 relating to employment claims, the "average" verdict in California was more than \$1.5 million. Even if one corrects for the statistical effect of a \$45 million verdict against Lockheed Corporation the *median* award during this period was \$200,000. In 10 of the 110 verdicts surveyed, the jury awarded more than \$1 million. An earlier study of California verdicts in employment cases, which covered 1989 through 1991, concluded that the average verdict was \$1.4 million. Of the 115 verdicts surveyed, 33 exceeded \$1 million and the median award was \$410,000. Based on these data, California must lead the nation in terms of the volume and size of jury verdicts in employment cases. Many states do not even recognize a tort cause of action for wrongful termination. In many states that recognize such a claim and under federal law, recovery of emotional distress damages in employment discrimination cases is prohibited or capped. For example, under the federal Civil Rights Act, emotional distress damages are limited as follows:

No. of Employees Employed by Defendant	Maximum Emotional Distress Recovery by Plaintiff Employee
15-100	\$50,000
101-200	\$100,000
201-500	\$200,000
501 or more	\$300,000

There is no such cap in California.

A jury's ability to award emotional distress damages is unlimited. No wonder employers are fleeing the state.

Our civil justice (or "tort") system has received a great deal of

The plaintiff wasn't even fired; he quit, claiming he was denied bonuses and that his duties had been unreasonably reduced. The case ultimately cost that employer almost \$7 million.

scrutiny in recent years. President George Bush's Council on Competitiveness, led by Vice-President Dan Quayle, published a report in August 1991 entitled "Agenda for Civil Justice Reform in America." The California Senate Republican Caucus staff published a report last year entitled "Are We Losing Our Competitive Edge? A Study of California's Business Environment." Peter Ueberroth's Council on California Competitiveness published an April 23, 1992, report entitled "California's Jobs and Future." All of these reports conclude that the entire tort system is out of control. I focus on the findings and recommendations of Ueberroth's Report because it is the most recent, it was written by a bipartisan group, and it specifically concentrated on the state of California.

The symptoms of the problem are both visible and invisible. We have all read about huge jury verdicts in the newspapers. This is a visible symptom of the problem. Jury verdicts are escalating at an alarming rate. According to tort law expert Peter Huber, "The first jury

verdict exceeding \$1 million was in 1962; in 1975 there were fewer than 20." In 1991, American courtrooms saw 750 verdicts of one million dollars or more. Punitive damages are frequently awarded in amounts that bear absolutely no relationship to the magnitude of the allegedly harmful conduct. The U.S. Supreme Court recently upheld an award of punitive damages in the amount of \$10 million in a case where the actual damages were \$19,000. The punitive damages were 526 times the compensa-

tory damages. A study of punitive damage awards against businesses in California, Florida, Illinois, New York, and Texas concluded that the awards were *89 times greater* in inflation-adjusted dollars from 1988 to 1991 than they were 20 years earlier in the period 1968 to 1971.

AT THE same time, liability seems to be assigned in a way that is capricious, even whimsical. Consider these examples: A jury orders an outside restaurant to pay more than \$3 million to a patron who was stung by a bee. After a father was convicted of sexually molesting his daughter, a Minnesota jury awards the girl \$2.4 million — against her *mother* for negligently failing to protect her. The award will be paid from the family's insurance company. Scholars who have studied our tort system depict a system that has lost its bearings. A system that was designed to compensate tangible and serious injuries at the expense of culpable parties has been transformed into a mechanism for redistributing income from large corporations and insurance companies to



self-styled “victims” and contingent fee lawyers, often in the absence of any blameworthy conduct.

IN CALIFORNIA, San Diego juries are among the state’s (and, therefore, the nation’s) most generous. Consider the following sampling:

June 16, 1992 — \$3.17 million verdict against Science Applications International Corporation in an individual sex discrimination case. The plaintiff was laid off from her \$47,600 per year position and eventually recovered \$1.7 million in lost earnings and emotional distress and \$2 million in punitive damages.

December 3, 1992 — \$3.5 million verdict against Sun Life of Canada in a wrongful termination lawsuit where the plaintiff was a manager with a written contract terminable without cause on 30 days’ written notice.

December 1992 — Ralphs grocery company was ordered to pay \$4.95 million in a contract dispute with an energy conservation consultant who spent approximately 100 hours making suggestions, none of which were adopted, because the jury decided the decision to reject the suggestions, which Ralphs had the unqualified right to do under the contract, was not made “in good faith.”

March 1993 — \$7.5 million verdict *against* personal injury attorney Sam Spital (widely known for his ubiquitous self-promotion on television), whose sin was in not recovering *a large enough settlement* for an employee who was injured on the job. One juror reportedly expressed the view that “we can’t electrocute him, so we need to put him in the poorhouse.” (Businessmen who believe, perhaps, that Spital got what he deserved should try to forget his obnoxious television ads and instead picture themselves as defendants facing the equivalent of a lynch mob.)

In 1992, 850,000 new lawsuits were filed in California’s state courts. Where is this litigation coming from? Employment litigation is one growth area. Product liability litigation is another. Between 1976 and 1986, a four-fold increase occurred in the volume of “product liability” cases — lawsuits where appliances, machinery, chemicals, automobiles, and other products are blamed for injuries. Under California law, product liability is “strict”; a manufacturer or retailer can be liable for injuries years after a product was sold even if the product was designed and produced in accordance with the then-prevailing industry standards. As the California

Assembly Republican Caucus reported earlier this year:

Primary factors in these developments are imbalances created in the civil justice system dating back to the early 1960s. A series of state Supreme Court rulings by liberal activists in the 1960s and 1970s on liability and procedural issues concerning both products and services severely dampened business markets in California. Some states initially followed California’s lead in such rulings, but many have subsequently enacted legislation repudiating such extreme liability doctrines.

Providing the infrastructure with which to conduct these lawsuits — courtrooms, judges, clerks, and related personnel — is extremely expensive. A recent report by RAND’s Institute for Civil Justice estimates that simply operating our nation’s civil courts costs \$2 billion a year, without reference to the billions spent by litigants. In addition, each lawsuit that is filed must be defended. Even before the case goes to trial — a process that can take years in some courts — litigants incur substantial costs in the course of pre-trial “discovery” and the filing of motions.

A high percentage of the lawsuits filed each year are settled prior to trial. The amount of the settlement is driven by the merits of the case, but also by the cost of defending the lawsuit and the possibility of a seven (or eight) figure jury verdict.

The combination of all these costs makes litigation a very expensive activity. According to Peter Huber, just the liability component amounts to “at least \$80 billion a year, a figure that equals the total profits of the country’s top 200 corporations.” According to the Ueberroth report: “The sorry result is that

surging liability insurance costs, huge legal bills, large settlements, and unpredictable jury verdicts impose a heavy 'tort tax' on every business, large and small, in the state — *a tax borne ultimately by all Californians in the form of costlier goods and services, fewer jobs, and less investment in California.*

This is the "invisible" aspect of the problem. We don't see the price increases in consumer products attributable to the "tort tax." Huber estimates, for example, that the "tort tax" accounts for 30 percent of the cost of a stepladder, 95 percent of the price of childhood vaccines, and one-third of the price of a small airplane. The litigation explosion has chilled the development of new products and drugs and has kept certain products off the market altogether. And it doesn't even compensate legitimate victims of wrongful conduct at all efficiently: "...out of every \$1 spent on the legal system," the Ueberroth group reported, "...less than 50 cents goes to successful plaintiffs"

A VARIETY of factors contribute to the current problem in our tort system. Without regard to the substance of our laws, the identity of our judges, the political influence of the plaintiffs' bar, the number of lawyers in our society, or the availability of contingent fees, lawsuits are filed by our colleagues and neighbors. Juries are comprised of our colleagues and neighbors. If people are filing crazy lawsuits and rendering crazy jury verdicts, part of the blame must be assigned to a de-

terioration of our shared cultural values of individual responsibility and self-determination. The explosion of our tort system has coincided with a phenomenon in our society of shirking responsibility for

old-fashioned sentiment expressed in a letter to the *Wall Street Journal* by Debra Carlton, a survivor of Hurricane Andrew, with the sentiment underlying the current tort system. The old-fashioned view:

'When I was a shelter manager during Hurricane Andrew, the roof caved in Should we sue the Red Cross or Miami Dade Community College? These things happen. Have we as a nation become so greedy that we cannot recover from hard times without the aid of a lawyer?'

I was a victim of a workplace injury, yet I have had no thoughts about suing my former employer, the American Red Cross.

When I was a shelter manager during this year's Hurricane Andrew, the roof caved in on my shelter's 1,600 residents; the ligaments and cartilage in my knee were torn. In a life experience like no other, the injured and uninjured, frail

and not-so-frail banded together to help one another out of the collapsing building and into a basement during the storm's worst winds.

Should we sue the Red Cross or Miami Dade Community College, which owned the building, for pain, suffer-

(Please turn to page 34)

one's fate and blaming others. Qualities such as resilience, toughness, forbearance, stoicism, and the ability to withstand adversity have been subordinated in favor of a "get rich quick" mentality fueled by greed, envy, and self-interest.

The emerging attitude is that life should be free of risk, that no misfortune occurs in the absence of blame (so long as the blame is external), and that no injury should go without compensation. "In the absence of either a social ethos or a transcendent ethic to confront adversity," argues Charles Sykes in his book, *A Nation of Victims*, "litigation [has become] both a proxy and a shortcut to innocence, meaning, and justification: If something has gone wrong, *someone must be at fault*. And it is not me." Contrast the



Criticus

Walking with a Stick

G. B. Tennyson

WALKING WITH a stick is British for walking with a cane. As best one can tell, the word *cane* surfaces in British usage more often as a verb than a noun, a legacy no doubt of public school and empire. *Stick* is the noun of choice for the instrument used by the infirm and the country rambler alike: "Just at the shepherd's hut a cow ran at us, but I waved my stick," writes C.S. Lewis in his early diaries, meaning his walking stick, not some broken-off piece of tree branch. Had he been "walking with a stick" it would have betokened some physical impairment.

Criticus never thought the expression "walking with a stick" would ever come much closer to him than that; in fact, he was an inveterate walking stick user, having acquired in Switzerland a few years ago a superb hazel walking stick with leather thong. Hazel being a bush (and a magical one) rather than a tree, it is not easy to come by an entire walking stick made of a single shaft of hazel. It was bound to bring good luck. Even a hazel staff, however, was no proof against mishap. This past summer I found myself in England walking with a stick in the English sense, that is, a necessary aid to perambulation and not as an ornament.

It all began with a lemon tree and Criticus up in it. It ended with Criticus on the ground, his upper leg having struck a foot-high con-

crete wall as he plummeted earthwards. You can fill in the rest. Add to that the fact that Criticus was booked to fly to London in a week. Against doctor's counsel, which boiled down to "stay home, stay off the leg," I made the trip. After all, you don't cast aside a non-refundable, non-transferrable ticket to London for the sake of a mere leg, do you? Well, Criticus doesn't at any rate.

The experience of being on the sitting side of the wheelchair and the rubber-handle end of a hospital-issue steel cane proved sufficiently instructive to mitigate somewhat the very real pain that went along with it. Visions of purchasing one of those handsome walking sticks I used to admire in the windows of the whip-makers Swaine Adeney Brigg Ltd (no commas, please) in Piccadilly soon evaporated when I visited the



shop and confronted the reality that such grand accessories begin at about £200 (\$300) and at the same time carry the debonair or strolling association of a walking stick, not the sympathy-garnering association of "walking with a stick." It had to be the hideous hospital issue if one was to hope for the kindness of strangers.

As a disabled person (and *pace* the ads, it *does* mean unable) I soon learned that my customary activities would be greatly curtailed. No more Underground, if it could be avoided: too many steps, escalators, corridors, passages. Better the bus. Though slower, the route is scenic and there are even seats designated for the infirm and those carrying large parcels, reminiscent of happier days on the Paris Metro with its seats reserved for pregnant women and *mutilés de guerre*. (Presumably these winning conditions were enshrined on the glass sometime after the Great War and have simply remained there doing service for all mothers and all wars. If only America could have so long a memory.) No all day sessions in the British Library followed by an evening at the theatre without returning to the hotel at all in between. Indeed, as I made my way down Museum Street (leading to the British Museum) an American academic colleague I did not even know was in London darted into the street from his seat at an outdoor cafe to pull me from the path of an onrushing overlaid van going the wrong way on the one-way street and bearing down on the man with the stick. No doubt there are extra points for that. At any rate the driver shouted imprecations at *me*, as though I had spoilt his aim, while my colleague berated me for getting myself in the condition that

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made it necessary for me to walk with a stick.

I did try the theatre once. The same night, in fact, as the almost accident. But I was still inexperienced in the ways of being disabled and did not realize the range of limitations that condition imposes. I chose a revival of Noel Coward's *Present Laughter* on the assumption that a comedy would cheer me up. I quite overlooked the fact that most London theatres were built in the latter part or at the turn of the last century, so seats are the size of Baby Bear's chair and space between the rows infinitesimal. My condition required that whenever possible I elevate my leg and avoid at all costs excessive bending at the knee. Ergo, an evening squeezed, bent-kneed, into a seat at the Globe Theatre (first opened in 1906) was pure torture.

On top of it all, *Present Laughter* proved to have very little of that commodity in it, at least in this particular production. It is late Coward and rather testy in tone. All three women in pursuit of the hero (a thinly disguised Coward himself) looked exactly like Joanna Lumley, a popular theatrical leading lady in the West End. To add to the confusion, one of them in the play was called Joanna, though inexplicably she delivered all her lines with a Russian accent, which is not how the play was written. In the semi-delirium of my pain I thought perhaps this was to distinguish her from all the other Joanna look-alikes. As it happens not even one of the actresses actually *was* Joanna Lumley, which made no difference, of course, but it shows the depth of my affliction.

SO THERE I was, effectively debarred from the theatre. In Ameri-



ca, of course, I could have sued to have the seats enlarged and the rows spaced more widely apart, the aisles redesigned for wheelchair access (though I was not in a wheel chair myself at this point), and special clasp-holders at the back of each seat to accommodate walking sticks. I could have demanded also a few million more for the anguish and humiliation I suffered from being stuck with a stick in a baby chair. But there are still remnants of sense in the old empire, so I knew such a suit would not go down there, especially as I couldn't throw in an extra charge of race and/or gender discrimination.

Instead I was thrown back on my own resources. Reading, for instance, short little walks (as opposed to excursions) 'round the neighborhood of South Kensington near my hotel. I discovered it to have almost the charm of a Parisian *quartier*, perhaps because it is a little center of French culture. The *Lycée Charles de Gaulle* is there, for example, as a cultural outpost for diplomatic and other French resident in London, and consequently there are nearby French groceries, bakeries, butcher shops, hairdressers, and the like. On a more native

note, just down the way, there is the glory of the church of St. Augustine's, Queen's Gate, a gothic revival gem from the great Victorian architect William Butterfield. See it before the authorities declare it redundant, to use the sinister British term.

IN ANY case London was a waystation where I would get my bearings and adjust my internal clock preparatory to making my way to East Sussex to consult with Owen Barfield about the film. The film, as even constant readers cannot know, since it has not yet been reported on, was an undertaking begun in the summer of 1992. Along with a group of film instructors and students that good fortune had brought together in London for a summer course, I had undertaken to film a documentary about Barfield, who, for the sake of brevity, can be described as the First and the Last of the Oxford Inklings, the man who C.S. Lewis said could not speak on any subject without illuminating it. Lewis spoke true, of course, and the film is only the latest of my efforts to illustrate the wisdom of his observation. It will not be quite the blockbuster that

the forthcoming *Shadowlands* is likely to be (see *CPR*, Winter 1991, for my report on the stage version and fears for the film), but we think *Owen Barfield: A Profile* will have its own special appeal. We have just begun the editing. Watch this space for word on the world premiere.

SO, INFIRMITY aside, it was off to Forest Row, a charming village in East Sussex on the edge of the South Downs, a series of gently rolling hills tumbling down to the coast and Hastings where there was once a famous battle. I have been to Forest Row frequently to see Barfield (I adverted to one such visit in *CPR*'s Winter 1992 issue) and never much thought about the fact that the village is built on the side of a hill. After all, it isn't very much of a hill. This time, however, it seemed the village was built in the Alps. As a result, I had to forgo staying in the fifteenth-century Chequers Inn, which would oblige me to walk uphill. ("Does the road wind up-hill all the way?" asks the sojourner in a Christina Rossetti poem, and a stern voice answers, "Yes, to the very end.") Instead I took a less commodious room in the retirement hotel where Barfield resides. The catch was that the only available room was on the British second, i.e., American third, floor. No lift, of course. So even picture-book Forest Row was teaching me a lesson about disability, just as sophisticated London had done.

Well, except for the always delightful encounter with Barfield (the film will make this clear), the story winds its weary way further uphill. ("Will the day's journey take

the whole long day?" "From morn to night, my friend.") From Forest Row back to South Kensington, then to Euston Station, then Euston to Lancaster where I had a work to do at the University. Wouldn't you know, in a flat country like

*On the weekend they tried to get me
to tour the Lake District, but I had
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tricked by that: the Lake District
is all hills and rain.*

England, Lancaster, aping little Forest Row, has also contrived to get itself built on hills. On the weekend they tried to get me to tour the Lake District, but I had read too much Wordsworth to be tricked by that: the Lake District is all hills and rain. So I elected to go for a short overnight to the politically incorrectly named Isle of Man in the hope of seeing something as haunting as Matthew Arnold's "Gipsy Child by the Sea-shore," a mournful looking waif whom he espied on a visit in the 1840s to Douglas, the capital of that ancient and independent island. (The official explanation is that the Isle of Man is a sovereign country that by happy accident shares a monarch with Great Britain.) There was no gipsy child on the edge of those cold waters, and the walk to my hotel ("just five minutes from the dock") was interminable and agonizing with stick in one hand and suitcase in the other. But there was the faded Victorian elegance of the grand crescent-shaped promenade stretching the considerable length of the

harbor at Douglas. There was the joy of the lingering northern twilight that lasted until 10 o'clock. Above all there was the soothing pleasure of a four-hour boat trip each way, which took one back to the glad-some days of eight-hour channel

crossings and (true bliss) five- to 10-day transatlantic crossings when each day brought new and endless horizons of steely grey waters and cold, boreal winds.

At length, of course, it was all over. The last wheelchair was shepherded through Manchester airport and even at this end an attendant

whirled one through the insane chaos that is LAX. (Do you suppose they named the international terminal after Mayor Bradley on the grounds that it was hopelessly confused and inefficient and in need of a kind of mental and organizational walking stick? Maybe the new mayor will sell it to Swaine Adeney Brigg, and they can whip it into shape.) Then it was time to reflect on the meaning of it all.

IT'S A nice question — in the old sense of *nice* — as to whether mandated and purchased charity is better than the Christian charity of old. Should all public buses be equipped with special lift apparatuses designed to accommodate the wheelchair-bound and damn the expense; or should the halt and the maim be obliged to rely on their own limited powers and the kindness of strangers? Like Tiresias I experienced it both ways. On the one hand in airports, train stations, and taxis, I was treated as a special case and moved about rather like a large stuffed doll and was set down to

wait ("stay here until I get back"), while porters and other attendants dashed about securing places for me, then returned and swooped me up in my chair and delivered me to those places as one would a parcel. It was rather enjoyable, like being a baby again and watching a varied and colorful world go by. On the other hand, once the servants had departed and I was but one among many, with only my stick and my halting gait to signal my impairment to the world, I found the kindness and courtesy of strangers to be quite kind indeed (old ladies helped me across the street) while yet leaving one some sense of dignity and self-reliance.

It may be a parable of the modern world. The nanny state would cocoon us with all the comforts but would also require that we ask permission to go to the Gents, as it were. The individual state would let us move on our own, even though our progress be slow, letting help come free and unconstrained. Which is it to be? Most people seem to want now one, now the other, not realizing that they are finally incompatible. Even with all its discomforts, I think I prefer walking with a stick.

CPR

BOOKS

California Dreaming

California in the Year 2000, by Charles F. Adams, Pacific Books, Palo Alto, 1993, 256 pages, \$21.95, cloth.

Reviewed by Peter Hannaford

DURING THE 1970s, Ronald Reagan often told his audiences

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that if California were a separate nation it would have the seventh or eighth largest economy in the world. Charles Adams tells us in *California in the Year 2000* that despite its recent economic difficulties the state retains that position. Other than the United States itself, California has an economy that dwarfs every nation's except those of Japan, Germany, France, Britain, and Italy.

This is one of the fascinating statistics that Adams builds on to give us a picture of a state that continues to be in the process of being created. He calls California an "economic megastate." By the turn of the new century, he says, "The California market probably will have expanded by more than one-third in real dollars." One reason: Californians are more productive than their fellow Americans, he says. "During the 1980s, when American manufacturing productivity increased on the average 3.7 percent annually, California's productivity growth was close to five percent a year."

No matter the stories of companies and people fleeing the Golden State as aerospace and real estate have gone into decline — California's population will continue to grow, Adams tells us. By the year 2000, there will be 35 million Californians, compared with about 30 million today. A little more than

half of the new Californians will come from natural growth (births over deaths); the rest from immigration. By 2003, California will be a land of minorities, slightly less than 50 percent Caucasian. Hispanics will most likely be the fastest-growing segment and Asians will have surpassed blacks in number.

Californians will be living longer, too. By 2000, there will be 12,000 residents who are 100 years or older (compared with 2,000 now). Population concentrations will shift, too. Santa Clara county, now number four behind Los Angeles, San Diego, and Orange, will be bypassed by San Bernardino and Riverside counties.

WHAT ABOUT jobs? Adams concludes that nearly 3.5 million new jobs must be created in the state during the 1990s. Most of them will be in the service sector. Analyzing state projections, he lists the top 10 categories as paralegal, tax preparers, data processing equipment repairers, photoengraving and lithographic machinery operators, personnel interviewers, electronic data systems analysts, home health aides, computer programmers, medical records technicians, and law clerks.

Although *California in the Year 2000* is loaded with statistics and 29 charts and tables, it is no dry tome. The information is accessible and easily digested. Adams has organized his mural of the future into 13 chapters covering such subjects as population, the economy, education, agriculture, water, health, environment, crime, culture, and politics. Within each chapter, the author presents questions and assertions in short sections, with his conclusion in boldface type at the end of each one. In addition, the skip-



reader will find at the end of each chapter, under the heading "By the Year 2000," summaries of his conclusions in three categories: "It is almost certain," "It is very likely," and "It is entirely possible."

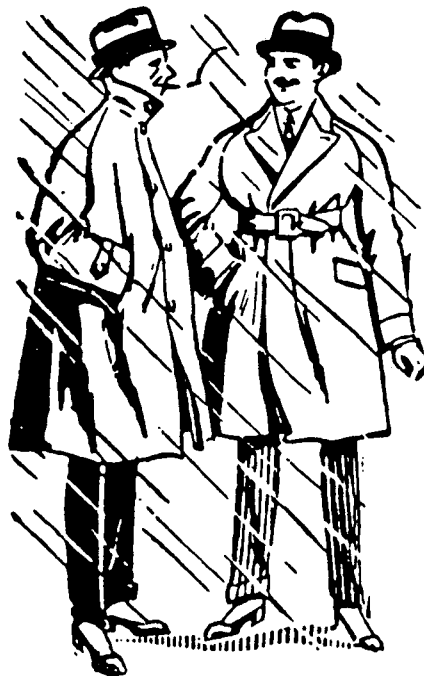
A SAMPLING of his conclusions shows the range of his research: "...increasingly sophisticated studies ... will cast new light and new suspicions on long-held environmental convictions that have become more emotional than logical. The sacred text of environmentalism will undergo considerable revision by the year 2000." And: "For the first decade of the 21st century, California could have as many as 60 seats in the House of Representatives, accounting for almost one of every seven votes in the House..."

He says the state is becoming more conservative politically, citing the slow but steady growth of Republican and Republican-leaning voters over the last dozen or so years. He concludes that "Republican candidates, especially those running for Congressional seats, will fare well in California through the year 2000." He also implies a more conservative cast for the state Legislature later in the decade as the effects of term limits are felt. He tells us "...the new Legislature will probably be somewhat older, as many retired businessmen, educators, and private citizens stand for election."

Perhaps most startling is his assertion that "Recent elections, as well as the population shift within the state, indicate the political 'fault line' in the future will no longer divide north from south, but rather east from west." Adams says that in the 1990 gubernatorial election, this trend would have been more pronounced than it appeared to be had not Governor Pete Wilson's

home county of San Diego voted for him. In future statewide elections, the author contends, "The booming inland counties of California, especially those in the Central Valley, the Sierra foothills, and the southeast corner of the state, will bring a tide of conservative votes to statewide elections. Voters in the coastal counties will tend to be more liberal in comparison with those in the rest of the state. Effective political planning in the year 2000 will require a clear understanding of this fundamental change in the California political landscape."

Adams, a retired businessman and author of a book on the building of the Golden Gate Bridge, has included useful footnotes and a bibliography, as well as acknowledgments of the statistical contributions of a large number of technicians of public and private data-gathering agencies. His careful research seems marred only by the incorrect statistical assertions (on the first page) that California's population exceeds that of Mexico's



and Canada's combined and of Egypt. Those aberrations aside, the reader can move forward with confidence that author Adams has drawn a fascinating, plausible (and largely optimistic) projection of California's future.

Parental Choice Primer

School Choice — Why We Need It, How We Get It, by David J. Harmer, Northwest Publishing, Salt Lake City, 1993, 184 pages, \$12.95, paper.

Reviewed by John Kurzweil

DAVID HARMER'S *School Choice — Why We Need It, How We Get It* is the place to go for every answer on California's Proposition 174 — this November's Parental Choice in Education Initiative. It includes the full text of the proposition, with a section-by-section breakdown explaining exactly how and why each was included and why it took the form it did.

Harmer answers major criticisms of parental choice straightforwardly. For example: Will 174 lure the public system's best students away? "Nowhere," Harmer explains, "does the initiative compel or even urge parents to send their children to private schools. In fact, it offers what ought to be a strong incentive to stay in public school instead: public school students receive *double* the per capita funding If the best students can't wait to leave, what does that say about the quality of the schools?" Exactly. If the public system is to be destroyed by competitors with one hand tied behind their backs, the problem, clearly, is with the public schools, not with choice.

Harmer, former president of the Excellence Through Choice in Education League, played a central role in writing Proposition 174 and is eminently qualified to explain it. This valuable book is available for \$12.95 plus \$3 shipping (bulk discounts available) by calling 1-800-322-1300. Credit cards welcome. CPR

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Popular Culture

Clinton's Hollywood Bodyguard

Free Speech for Me, But Not for Thee — Jay Leno's Introduction to Comical Correctness

T. R. O'Neill-Lopez

PEOPLE WHO work in the dream factories are warm, sensitive types, committed to diversity, right? If you ask them, they will certainly tell you that. And when it comes to humor and satire, everybody's fair game, right? Think again. One big star is making jokes about the president, and some people don't like it one bit.

"Tonight Show" guest Sam Neill, star of *Jurassic Park*, told host Jay Leno that during the war of 1812, one of his ancestors had participated in burning down the White House. "We could use someone like that today," Leno responded. The audience went wild. Leno's other Clinton jokes include the following:

"When will Clinton have sex in the White House? As soon as Hillary leaves."

"Why do terrorists want to blow things up? Why don't they just wait until Clinton's economic plan takes hold?"

"Clinton is down in the polls, so he says he is going to get back to his basic beliefs, as soon as David Gergen tells him what they are."

Leno's disrespect for His Man was too much for television writer-

producer James Retter. In a *Los Angeles Times* editorial, Retter complained about Jay Leno's "nightly attacks on President Clinton." To paraphrase Marlon Brando in *Apocalypse Now*: Oh, the horror of it all!

Not only had Mr. Leno cracked the above jokes. Why, he had shattered the very bounds of decency. Leno had gone so far as to stage a sketch of Clinton as a "fat Elvis wanna-be," and otherwise showed the president as "a womanizing rake" and a "hopeless Goober from the Southern sticks." Worse, Leno had made these attacks on a "not-so-swell personal level." How Mr. Leno might make impersonal jokes about the president was not explained. Retter's attack on Leno was certainly personal.

If Leno wanted to consider himself a political satirist, huffed Retter, evidently an amateur career adviser, "he needs to get out of Clinton's hypothetical bedroom, off the cheap shots, and onto some kind of historical perspective and balance." Leno's "personal vendetta" and "anything for a laugh" style, said Retter, were "not exactly the ingredients for a great and long career," which sounds kind of like the oldest line in Hollywood: "You'll never work in this town again."

What kind of "core beliefs and

values," wondered Retter, could a man possibly have who would dare to make fun of Bill Clinton? Hollywood, of course, maintains a monopoly on beliefs and values, as a glance at prime-time TV will confirm. The Color of Money is a one-line summation of values in Hollywood, where the basic instincts tend to prevail.

Retter and his liberal-left soulmates are the ones who need an historical perspective. Where have they been for the last 12 years? Kuala Lumpur? Big-time clowns ripped away at former Vice-President Dan Quayle until there was nothing left. Last year's Emmy Awards degenerated into an orgy of Quayle-bashing so extreme that even some Hollywood liberals found it embarrassing. There was no "balance" of any sort.

ARSENIO HALL, another political sage, used his electronic pulpit to bash Bush and Quayle more or less on a nightly basis. So did Dennis Miller and a host of other performers. To put it mildly, these attacks were personal and relentless. So were those levelled at former President Ronald Reagan, a kind of Great Satan to the Hollywood crowd. But Retter and other Hollywood liberals did not complain that

T. R. O'Neill-Lopez is California Political Review's roving correspondent on Popular Culture.

this barrage was "not so swell." (Okay, so Retter's a TV writer, not John Updike.) And their memory is also faulty.

LENO is the one who is even-handed. Some of his better jokes were about Reagan. For example, members of the Reagan Administration proclaimed themselves willing to undergo drug tests. On a "Letterman" show, Leno said he didn't think there was anyone in the administration doing drugs. "If you want to scare these people," he said, "bring in IQ tests." The joke, a good one, scored a big laugh, just like Leno's current jokes about Clinton.

Hollywood was once McGovern Country, then Dukakis Country. Now it's solid Clinton Country. "We won!" crowed actress, comic, and noted political philosopher Whoopi Goldberg on her talk show shortly after the 1992 election. Her guest, actor Alec Baldwin, enthusiastically agreed. Now they want Their Man, and presumably Hillary, to be a joke-free zone. Even in leftish Hollywood, it's not going to happen. This is America, where politicians constitute a target-rich environment.

And our current president, after all, is the only man in history to smoke dope without inhaling. He fools around with bimbos named Gennifer. He goes on television to tell us how hard he is working, and that he had no idea how big the deficit actually was. He selects people for office without reading their writings. Comedians who ignore this target are not doing their job.

To his credit, Leno has not allowed such liberal attacks to cramp his style. During the recent midwest floods, he warned that Clinton would impose a "sandbag tax." In

formed that a retroactive tax increase would apply to the living and the dead, Leno cracked that Al

Gore would therefore have to be "taxed twice." This is a comedian who is doing his job. CPR

California's 'Tort Tax'

(Continued from page 27)

ing, loss of work, medical costs, near loss of life and the resulting emotional trauma? We experienced them all in Andrew. But I think a lawsuit is ridiculous *These things happen.* But what price recovery? *Have we as a nation become so greedy that we cannot recover from hard times without the aid of a lawyer?*

THE CURRENT view, as expressed by prominent San Diego plaintiff's lawyer Craig McClellan:

People who do the plaintiff's work have a different attitude about responsibilities in society. They have an attitude more that gets away from the old *caveat emptor*, let the buyer beware. They're more protectionist. They're looking out for consumers, the people who have less, the people that know less. The people that can't defend themselves....

People have unquestionably become more contentious, litigious, sensitive, and intolerant, and have become less co-operative, harmonious, and forgiving. Perhaps this is inevitable or at least uncontrollable. But, if so, we have to reform our civil justice system accordingly.

For example, "summary judgment" and similar devices to dismiss frivolous lawsuits at early stages are insufficiently used. If a lawsuit is filed that is entirely lacking legal and factual basis, should a defendant have to litigate the case through a trial and sometimes on appeal, at a cost of many hundreds

of thousands (or even millions) of dollars before the case is thrown out? No, but that is what frequently happens when courts are unwilling to grant motions for "summary judgment," which would avoid the cost and burden of trials (and of extensive pre-trial "discovery") on meritless claims.

The recent lawsuit against San Diego Gas & Electric (SDG&E) is a good example. In a welcome display of reason in our civil justice system, a jury deliberated just four hours before rendering a defense verdict in the case alleging that electrical power lines cause cancer. Although SDG&E ultimately won, it cost nearly \$2.1 million to defend the case. SDG&E will not be able to recover its attorneys' fees from the plaintiffs who filed this frivolous lawsuit.

The expense will be borne by California consumers either in the form of higher insurance rates or higher utility rates, or both. The case should never have been filed. Having been filed, it should have been thrown out at an early stage. Instead, it consumed substantial judicial resources, management resources at SDG&E, and more than \$2 million in attorneys' fees. A more aggressive approach to granting summary judgment could have avoided a trial in this case and saved SDG&E a significant amount of legal expenses.

One more illustration: A motorist was driving his new Corvette on the freeway, enjoying the view through the car's sunroof. Suddenly, two teenagers threw a six pound

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One more illustration: A motorist was driving his new Corvette on the freeway, enjoying the view through the car's sunroof. Suddenly, two teenagers threw a six pound

piece of concrete from an overpass, smashing through the sunroof and causing serious brain damage. Of course the teenagers were judgment proof. Even though they were caught and convicted of criminal assault in Juvenile Court, they had no assets. So the driver of the car sued the state for not covering the overpass. (He recovered a \$2.4 million settlement.) He also sued General Motors for negligent design of the sunroof. He claimed that it should have been able to withstand the force of a piece of concrete hurled from an overpass. A jury recently voted 7 to 5 in favor of the driver, but since nine votes are needed for a verdict there will be *another* trial. Lawsuits like this should be thrown out prior to trial.

The attitude of judges makes a big difference. There has been a marked improvement under the administrations of Governors Deukmejian and Wilson, but further efforts are warranted. Much of our tort law is judge-made. Even in the absence of legislation, a significant portion of our tort law could be reformed by more sensible judicial decisions.

ANOTHER FACTOR aggravating the situation is fraud. I do not want to suggest that all or even most law-

suits are fraudulent. Many legitimate injuries warrant redress in our tort system.

But there is also a great deal of fraud, and our system often seems incapable of distinguishing between the valid and the fraudulent claims. I offer two recent examples: An elderly woman (represented by Melvin Belli) sued a local Kentucky Fried Chicken outlet for crippling injuries she supposedly suffered when she slipped on a puddle of barbeque sauce that the restaurant negligently failed to clean up. The woman demanded a \$4 million settlement. The defense lawyer had resigned himself to a jury verdict of several million dollars. The case was in trial when the defense learned that the woman had staged similar injuries in Florida, recovering \$24,000 from her employer and \$582,000 from McDonald's. She had also tried to recover against a bowling alley in Florida, but had been caught.

When the defense revealed the information during trial, the woman fled the San Diego courtroom, leaving behind an embarrassed Melvin Belli, who said his client "was the nicest, most honest, most believable woman that I've ever seen" — one whose whole claim had been fraudulent: there was no puddle of sauce, no accident, no injuries. The eyewitness was phony. The purported victim fooled her doctors and, if you believe Melvin Belli, she fooled her lawyer. She almost fooled the tort system. The woman was even-

The defense learned that the woman had staged similar injuries in Florida, recovering \$24,000 from her employer and \$582,000 from McDonald's. When the defense revealed the information, the woman fled the San Diego courtroom.

tually arrested in Florida and extradited to San Diego but she came close to recovering millions of dollars for an accident that never happened. How many people aren't caught?

Another aspect of fraud, probably much more common than the previous case, involves the exaggeration of injuries from accidents that *do* happen. *The Wall Street Journal* recently profiled a California woman who has filed more than 30 lawsuits in the last 15 years. These lawsuits, mainly personal injury claims, have involved auto accidents, falls in department stores, injuries caused by doors of a bank, having her foot run over by a shopping cart at a grocery store — you get the picture. But because the system recognizes such trivia as valid claims, and because of the expense of litigation and the difficulty of obtaining summary judgment, she has received out-of-court settlements in about half of her lawsuits.

We have to confront our civil justice system as the disgrace that it is. We must have liability rules and judges that can distinguish between accidents that inflict serious injuries and accidents that did not happen.

WHAT ARE the solutions? Unlike the workers' compensation system, which is governed by a comprehensive California statute and



operates as a centralized administration, the tort system is a complex network of inter-related components. Comprehensive tort reform is a task that requires numerous changes at the legislative and judicial levels. The Ueberroth report made the following proposals:

Frivolous Litigation:

a. Impose sanctions on parties and lawyers who file frivolous, unmeritorious suits.

b. Require trial court summary judgments (and summary adjudications) against unmeritorious suits.

c. Prohibit deceptive lawyer advertising and deceptive lawyer referrals to the extent permitted by the First Amendment, while recognizing the need to preserve universal access to the courts.

Limit Punitive Damages

Amend California Civil Code §3294 and the state Constitution to require that the determination of the amount of punitive damages be made *by the trial judge* after the jury has found liability for such damages and has determined, unanimously, that punitive damages are warranted "beyond a reasonable doubt."

Emotional Distress Damages in Employment Law

Conform the limitations on recoveries in California's Fair Employment and Housing Act and "public policy" discharge cases to those of the Federal Civil Rights Act.

Court Delays, Abusive Discovery, Confidential Settlement Agreements

a. Impose strict, closely super-

vised limits on costly and time-consuming "discovery" — i.e., depositions, interrogatories — so as to prevent abuse.

b. Oppose attempts to weaken judges' power to protect the confidentiality of information disclosed in the course of discovery and preserve the confidentiality of settlement agreements freely entered into by the parties to disputes.

Encourage Alternative Dispute Resolution

Implement the use of arbitration and mediation by contract, by agreement after a dispute has arisen, and through court referrals. Educate the public, courts, and lawyers on the advantages of the numerous available alternatives to resolving disputes through litigation.

Product Liability

a. Limit manufacturer liability for design defects to cases in which the plaintiff proves that the particular design danger alleged was known to the defendant at the time of manufacture, that the danger outweighs the safety benefits of the design selected, and that a feasible and practicable alternative design was, in fact, available at the time of manufacture.

b. Limit liability for a defective warning about a product's use to cases where plaintiff proves by a preponderance of evidence that

(1) the danger was known or reasonably knowable when the product was made, and

(2) there existed an alternative warning that would have averted the injury and would not have reduced the effectiveness of warnings

made against other dangers, if any, related to the product.

c. Restore the legal rule that evidence of negligence, of design or manufacturing defect, or of inadequate warning may not include those remedial or precautionary measures (for example, the repair of a broken safety device) taken by the defendant or others after the event which is the basis for the plaintiff's claim.

d. Enact a "statute of repose" that bars product liability claims against manufacturers based on products manufactured more than 15 years before the claim is made.

Allocation of Fees

Amend the California Code of Civil Procedure §998 to provide for the court-ordered payment of an opponent's attorneys' fees in lawsuits in which a party who rejects an offer of settlement receives less (or loses more) through trial than the settlement offer. (Note here that unless and until the liability rules are made sensible, this could be a trap for defendants. In civil rights cases that permit the recovery of attorneys' fees, trial courts can and will award huge attorneys' fees award to plaintiffs at exorbitant rates — up to \$450 an hour — the plaintiffs' counsel would never be able to command in the open market.)

OUR GOAL must be to reverse the tide, incrementally if necessary. We did not lose control of our system overnight, and it may take time to regain control. When appellate courts tell us the legal system is out of control, it is time to listen. CPR

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The most powerful indictment ever written about the education mess — Thomas Sowell's...

INSIDE AMERICAN EDUCATION

"The American system of education is bankrupt," charges Thomas Sowell, pointing out that even those who know this are helpless to reform it. "We need to face the harsh reality of the kind of people we are dealing with, the kind of bitter fight we can expect if we try to disturb their turf." Dr. Sowell piles up proof with example after example. Among the hundreds:

Just how incompetent a teacher can be and still keep the job was illustrated by an extreme case in South Carolina, where a school tried to get rid of a teacher who had been warned repeatedly about her poor teaching and poor English. At a hearing where she was given a ten-word vocabulary test, she could neither pronounce nor define the word "agrarian." She could pronounce the word "suffrage" but defined it as "people suffering from some reason or other." The word "ratify" she defined as "to get rid of something." In her own defense, she said: "I'm not saying I was the best, but I don't think I did more harm than anyone else." A judge ordered her reinstated.

Walter Williams, himself a distinguished professor of economics, sums up Dr. Sowell's achievement in the *Washington Times*:

"We all know about the poor and deteriorating state of education in America, but we don't know all the reasons why. *Inside American Education* gives us the fullest list of particulars that I have seen... names, dates and places on how the education establishment from kindergarten to college is destroying our children's prospects for the future, all the while taking taxpayers, parents and private foundations to the cleaners."

You don't have to be Jewish to rejoice in Don Feder's...

A JEWISH CONSERVATIVE LOOKS AT PAGAN AMERICA

In fact, we can't imagine any right-thinking person of any faith not saluting Don Feder's new book. He isn't one of those who think that a free market is all that America needs, or another Republican in the White House. He zeroes in on the defining issues of our time, the ones that make us what we are:

sexual morals • the culture • abortion • humanism
• the media • feminism

HUMAN EVENTS calls it "brilliant," adds:

"Orthodox Christians will want to stand up and cheer Feder's chapters on the family, faith, homosexuality, the New Age, morality and sexuality, AIDS and sex education, the media, drugs and crime, pornography, abortion and euthanasia, feminism and the culture... Feder's chapter on Judaism is indispensable for anyone who has wondered why so many Jews — the original ethical monotheists — seem hopelessly wedded to ultraliberalism and radical secularism... Feder points with hope to the growing Orthodox Jewish community, whose values and politics mirror those of the Christian Right."

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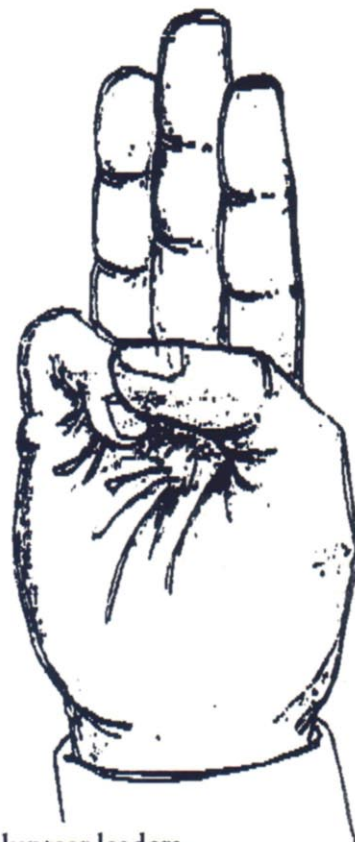
To Do My Duty To God And My Country...

Since the turn of the 20th Century, and now in more than 100 countries throughout the world, the Boy Scouts have helped boys develop character, moral standards, citizenship, and a love of the outdoors.

The Scout Oath, the foundation on which the Scout movement is built, is observed by every boy who seeks to join and participate in Scouts. It provides:

"On my honor I will do my best To do my duty to God and country and to obey the Scout Law; To help other people at all times; To keep myself physically strong, mentally awake, and morally straight."

The Boy Scout Oath -



The Boy Scouts of America is a non-profit, non-government organization, with entirely volunteer leaders. President Bill Clinton has said "The Boy Scouts are a private organization and, as such, they ought to have a right to whatever rules they want." Scouts are entitled to the full protection of the First Amendment's freedom of association and expression.

But recently, some powerful interests have challenged these rights. A few large companies, including Levi-Strauss, Inc. and Wells Fargo have objected that the Scout Oath mentions God, and that the Boy Scouts of America forbid homosexual scoutmasters.

The Boy Scouts cannot be all things to all people. But we believe firmly that there is an important place for the Boy Scouts in America. If you agree, then show your support for Scouting now, when it's under attack.

Here in California, the Boy Scouts are serving over 300,000 boys. Help us help them survive the lawsuits and press assaults, so they can continue to survive as a private organization.

Make it your good deed for the day.

SAVE OUR SCOUTS SUPPORTERS

Dana Rohrabacher, Honorary Chairman, Save Our Scouts Project • Hon. Robert K. Dornan
Hon. Ron Packard • James V. Lacy, Director, Save Our Scouts Project

To help counter the challenge to the Scouts and for more information on how you can help defend Scouting, sign the "Save Our Scouts" petition below and return it today.

Save Our Scouts Project Statement of Support

I support the goals of Save Our Scouts. I will do the following things.

- ☐ Sign my petition to the Chairmen of Levi-Strauss and Wells Fargo Bank
- ☐ Write a personal letter expressing my support of the Boy Scouts to:

Robert D. Haas, Chairman of the Board
Levi-Strauss and Co.
P.O. Box 7215, San Francisco, CA 94120

Carl E. Reichardt, Chairman of the Board
Wells Fargo Bank, 420 Montgomery Street,
San Francisco, CA 94163

Please keep me informed of Save Our Scouts Inc. activities!

Name _____
Address _____
City _____ State _____ Zip _____
Phone _____

Petition to the Chairman of the Board of Levi-Strauss Inc. and Wells Fargo Bank

WHERE AS: The Boy Scouts of America are an American institution with an outstanding record of instilling leadership skills and traditional moral values in the growth of our country. And,
WHERE AS: Pressure groups should not be permitted to undermine corporate support for Scouting in order to force the Scouts to change their moral standards or eliminate religious and patriotic expression.

THEREFORE BE IT RESOLVED: We call upon you to reinstate your company's support for the Boy Scouts of America.

Signature _____

Return to: Save Our Scouts, Inc. 30100 Town Center Dr. #0-269, Laguna Niguel, CA 92677. We will forward your petitions together with many others to the chairmen of Levi-Strauss and Wells Fargo Bank.